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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 10-Q**

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

For the quarterly period ended June 30, 2006

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

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**CHENIERE ENERGY, INC.**

(Exact name as specified in its charter)

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**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)

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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 a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of July 31, 2006, there were 54,981,865 shares of Cheniere Energy, Inc. Common Stock, \$.003 par value, issued and outstanding.

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# PART I. FINANCIAL INFORMATION

## Item 1. Consolidated Financial Statements

### CHENIERE ENERGY, INC. AND SUBSIDIARIES CONSOLIDATED BALANCE SHEET (in thousands, except share data)

	June 30, 2006 (unaudited)	December 31, 2005 (as adjusted)
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 657,608	\$ 692,592
Restricted cash and cash equivalents	136,860	160,885
Restricted certificate of deposit	688	676
Advances to EPC contractor	—	8,087
Accounts receivable	5,386	2,912
Derivative assets	11,618	5,468
Prepaid expenses	3,613	843
Total current assets	815,773	871,463
NON-CURRENT RESTRICTED CASH AND CASH EQUIVALENTS	13,744	16,500
PROPERTY, PLANT AND EQUIPMENT, NET	469,686	280,106
DEBT ISSUANCE COSTS, NET	40,288	43,008
INVESTMENT IN LIMITED PARTNERSHIP	—	—
GOODWILL	76,844	76,844
LONG-TERM DERIVATIVE ASSETS	29,891	1,837
INTANGIBLE ASSETS	1,680	93
OTHER	1,890	296
Total assets	<u>\$ 1,449,796</u>	<u>\$ 1,290,147</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ 149	\$ 778
Accrued liabilities	53,541	54,544
Current portion of long-term debt	6,000	6,000
Total current liabilities	59,690	61,322
LONG-TERM DEBT	1,063,500	917,500
DEFERRED REVENUE	41,000	41,000
LONG-TERM DERIVATIVE LIABILITIES	—	1,682
LONG-TERM ASSET RETIREMENT OBLIGATION	59	102
COMMITMENTS AND CONTINGENCIES	—	—
<b>STOCKHOLDERS' EQUITY</b>		
Preferred stock, \$.0001 par value, 5,000,000 shares authorized, none issued	—	—
Common stock, \$.003 par value Authorized: 120,000,000 shares at both June 30, 2006 and December 31, 2005 Issued and outstanding: 54,935,191 shares at June 30, 2006 and 54,521,131 shares at December 31, 2005	166	164
Additional paid-in-capital	378,130	375,551
Deferred compensation	—	(9,684)
Accumulated deficit	(120,718)	(101,288)
Accumulated other comprehensive income	27,969	3,798
Total stockholders' equity	285,547	268,541
Total liabilities and stockholders' equity	<u>\$ 1,449,796</u>	<u>\$ 1,290,147</u>

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

**CHENIERE ENERGY, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENT OF OPERATIONS**  
(in thousands, except per share data)  
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005 (as adjusted)	2006	2005 (as adjusted)
Revenues				
Oil and gas sales	\$ 413	\$ 689	\$ 835	\$ 1,425
Total revenues	413	689	835	1,425
Operating costs and expenses				
LNG receiving terminal and pipeline development expenses	(4,506)	5,350	3,807	10,775
Exploration costs	590	560	1,428	1,102
Oil and gas production costs	55	34	105	89
Depreciation, depletion and amortization	579	249	1,185	453
General and administrative expenses	12,444	5,600	25,625	10,590
Total operating costs and expenses	9,162	11,793	32,150	23,009
Loss from operations	(8,749)	(11,104)	(31,315)	(21,584)
Equity in net loss of limited partnership	—	(127)	—	(971)
Derivative gain (loss)	162	(642)	923	(667)
Interest expense	(11,096)	—	(22,234)	—
Interest income	10,335	1,755	19,879	3,573
Other income	108	426	284	426
Loss before income taxes and minority interest	(9,240)	(9,692)	(32,463)	(19,223)
Income tax benefit	5,621	—	13,033	—
Loss before minority interest	(3,619)	(9,692)	(19,430)	(19,223)
Minority interest	—	—	—	97
Net loss	\$ (3,619)	\$ (9,692)	\$ (19,430)	\$ (19,126)
Net loss per common share—basic and diluted	\$ (0.07)	\$ (0.18)	\$ (0.36)	\$ (0.36)
Weighted average number of common shares outstanding—basic and diluted	54,369	53,757	54,293	53,063

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

**CHENIERE ENERGY, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY**  
(in thousands)  
(unaudited)

	Common Stock		Treasury Stock		Additional	Deferred	Accumulated	Accumulated	Total
	Shares	Amount	Shares	Amount	Paid-In	Compensation	Deficit	Other	Stockholders'
					Capital			Comprehensive	Equity
Balance—December 31, 2005 (as adjusted)	54,521	\$ 164	—	\$ —	\$375,551	\$ (9,684)	\$ (101,288)	\$ 3,798	\$ 268,541
Issuances of stock	285	2	—	—	1,716	—	—	—	1,718
Issuances of restricted stock	153	—	—	—	—	—	—	—	—
Reversal of deferred compensation	—	—	—	—	(9,684)	9,684	—	—	—
Stock-based compensation	—	—	—	—	11,479	—	—	—	11,479
Purchase of treasury stock	—	—	(24)	(932)	—	—	—	—	(932)
Retirement of treasury stock	(24)	—	24	932	(932)	—	—	—	—
Comprehensive income (loss):									
Interest rate swaps	—	—	—	—	—	—	—	24,205	24,205
Foreign currency translation	—	—	—	—	—	—	—	(34)	(34)
Net loss	—	—	—	—	—	—	(19,430)	—	(19,430)
Balance—June 30, 2006	<u>54,935</u>	<u>\$ 166</u>	<u>—</u>	<u>\$ —</u>	<u>\$378,130</u>	<u>\$ —</u>	<u>\$ (120,718)</u>	<u>\$ 27,969</u>	<u>\$ 285,547</u>

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

**CHENIERE ENERGY, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENT OF CASH FLOWS**  
(in thousands)  
(unaudited)

	Six Months Ended June 30,	
	2006	2005 (as adjusted)
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net loss	\$ (19,430)	\$ (19,126)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation, depletion and amortization	1,185	453
Impairment of unproved properties	323	578
Dry hole expense	540	—
Amortization of debt issuance cost	1,835	—
Non-cash compensation	10,896	1,671
Deferred tax benefit	(13,033)	—
Equity in net loss of limited partnership	—	971
Minority interest	—	(97)
Non-cash derivative (gain) loss	(580)	667
Other	(10)	(8)
Changes in operating assets and liabilities		
Accounts receivable	(644)	390
Prepaid expenses	(2,770)	(860)
Deferred revenue	—	15,000
Regulatory assets	(12,343)	—
Accounts payable and accrued liabilities	(1,114)	(190)
<b>NET CASH USED IN OPERATING ACTIVITIES</b>	<b>(35,145)</b>	<b>(551)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
LNG terminal and pipeline construction-in-progress	(160,475)	(92,085)
Advance to EPC contractor	—	(24,260)
Purchases of fixed assets	(4,050)	(1,899)
Investment in limited partnership	—	(1,592)
Oil and gas property additions, net of sales	(2,576)	(799)
Use of (investment in) restricted cash	26,782	(136)
Other	(3,052)	(520)
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(143,371)</b>	<b>(121,291)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Repayment of Term Loan	(3,000)	—
Purchase of treasury shares	(932)	—
Debt issuance costs	(3,252)	(16,840)
Sale of common stock	1,716	2,009
Borrowing under Sabine Pass Credit Facility	149,000	—
Other	—	47
<b>NET CASH PROVIDED BY (USED IN) FINANCING ACTIVITIES</b>	<b>143,532</b>	<b>(14,784)</b>
<b>NET DECREASE IN CASH AND CASH EQUIVALENTS</b>	<b>(34,984)</b>	<b>(136,626)</b>
<b>CASH AND CASH EQUIVALENTS—BEGINNING OF PERIOD</b>	<b>692,592</b>	<b>308,443</b>
<b>CASH AND CASH EQUIVALENTS—END OF PERIOD</b>	<b>\$ 657,608</b>	<b>\$ 171,817</b>
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:</b>		
Interest expense (net of amounts capitalized)	\$ 28,176	\$ —

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 accompanying unaudited consolidated financial statements of Cheniere Energy, Inc. have been prepared in accordance with generally accepted accounting principles in the United States (“GAAP”) 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. As used herein, the terms “Cheniere,” “we,” “our” and “us” refer to Cheniere Energy, Inc. and its subsidiaries.

Certain reclassifications have been made to conform prior period amounts to the current period presentation. These reclassifications had no effect on net loss or stockholders’ equity. As discussed below, we changed our method of accounting for investments in oil and gas properties from the full cost method to the successful efforts method of accounting, and as a result, the change in accounting method required that all prior period financial statements be adjusted to reflect the results and balances that would have been reported had we been following the successful efforts method of accounting from inception.

Interim results are not necessarily indicative of results to be expected for the full fiscal year ending December 31, 2006. All references to issued and outstanding shares, weighted average shares, and per share amounts in the accompanying unaudited consolidated financial statements have been retroactively adjusted to reflect our two-for-one stock split that occurred on April 22, 2005.

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, 2005.

*New Accounting Pronouncements*

In February 2006, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards (“SFAS”) No. 155, *Accounting for Certain Hybrid Financial Instruments – An Amendment of FASB Statements No. 133 and 140* (“SFAS No. 155”). SFAS No. 155 provides entities with relief from having to separately determine the fair value of an embedded derivative that would otherwise be required to be bifurcated from its host contract in accordance with SFAS No. 133. SFAS No. 155 allows an entity to make an irrevocable election to measure such a hybrid financial instrument at fair value in its entirety, with changes in fair value recognized in earnings. SFAS No. 155 is effective for all financial instruments acquired, issued or subject to a remeasurement event occurring after the beginning of an entity’s first fiscal year that begins after September 15, 2006. We believe that the adoption of SFAS No. 155 will not have a material impact on our financial position, results of operations or cash flows.

In March 2006, the FASB issued SFAS No. 156, *Accounting for Servicing of Financial Assets – An Amendment to FASB Statement No. 140*. Once effective, SFAS No. 156 will require entities to recognize a servicing asset or liability each time they undertake an obligation to service a financial asset by entering into a servicing contract in certain situations. This statement also requires all separately recognized servicing assets and servicing liabilities to be initially measured at fair value and permits a choice of either the amortization or fair value measurement method for subsequent measurement. The effective date of this statement is for annual periods beginning after September 15, 2006, with earlier adoption permitted as of the beginning of an entity’s fiscal year provided the entity has not issued any financial statements for that year. We do not plan to adopt SFAS No. 156 early, and do not believe that it will have a material impact on our financial position, results of operations or cash flows.

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

In July 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes - An Interpretation of FASB Statement No. 109* ("FIN 48"). FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with SFAS No. 109, *Accounting for Income Taxes*. It prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This new standard also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The provisions of FIN 48 are to be applied to all tax positions upon initial adoption of this standard. Only tax positions that meet the more-likely-than-not recognition threshold at the effective date may be recognized or continue to be recognized upon adoption of FIN 48. The cumulative effect of applying the provisions of FIN 48 should be reported as an adjustment to the opening balance of retained earnings (or other appropriate components of equity or net assets in the statement of financial position) for that fiscal year. The provisions of FIN 48 are effective for fiscal years beginning after December 15, 2006. Earlier application is permitted as long as the enterprise has not yet issued financial statements, including interim financial statements, in the period of adoption. We believe that the adoption of FIN 48 will not have a material impact on our financial position, results of operations or cash flows.

*Change in Method of Accounting for Investments in Oil and Gas Properties*

Effective January 1, 2006, we converted from the full cost method to the successful efforts method of accounting for our investments in oil and gas properties. While our primary focus is the development of our liquefied natural gas ("LNG") related businesses, we have continued to be involved, to a limited extent, in oil and gas exploration and development activities in the U.S. Gulf of Mexico. We believe that, in light of our current level of exploration and development activities, the successful efforts method of accounting provides a better matching of expenses to the period in which oil and gas production is realized. As a result, we believe that the change in accounting method at that time was appropriate. The change in accounting method constituted a "Change in Accounting Principle," requiring that all prior period financial statements be adjusted to reflect the results and balances that would have been reported had we been following the successful efforts method of accounting from our inception. The cumulative effect of the change in accounting method as of December 31, 2004 and 2005 was to reduce the balance of our net investment in oil and gas properties and retained earnings at those dates by \$18,237,000 and \$17,977,000, respectively. The change in accounting method resulted in a decrease in the net loss of \$145,000 and an increase in the net loss of \$73,000, for the three and six months ended June 30, 2005, respectively, and had no significant impact on earnings per share (basic and diluted) for these respective periods (see Note 14 — "Adjustment to Financial Statements – Successful Efforts"). The change in method of accounting has no impact on cash or working capital.

*Successful Efforts Method of Accounting*

We have elected to follow the successful efforts method of accounting for our oil and gas properties. Under this method, production costs, geological and geophysical costs (including the cost of seismic data), delay rentals, costs of unsuccessful exploratory wells, and internal costs directly related to our exploration and development activities are charged to expense as incurred. The costs of property acquisitions, successful exploratory wells, development costs, and support equipment and facilities are initially capitalized when incurred. In accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, we review proved oil and gas properties and other long-lived assets for impairment when events and circumstances indicate a decline in the recoverability of the carrying value of such properties, such as a downward revision of the reserve estimates or commodity prices. We estimate the future cash flows expected in connection with the properties and compare such future cash



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

flows to the carrying amount of the properties to determine if the carrying amount is recoverable. When the carrying amounts of the properties exceed their estimated undiscounted future cash flows, the carrying amount of the properties is written down to their estimated fair value. The factors used to determine fair value include, but are not limited to, estimates of proved reserves, future commodity prices, timing of future production, future capital expenditures and a risk-adjusted discount rate. Individually significant unproved properties are also periodically assessed for impairment of value, and a loss is recognized at the time of impairment by providing an impairment allowance. Depreciation, depletion and amortization of proved oil and gas properties is determined on a field-by-field basis using the unit-of-production method over the life of the remaining proved reserves.

*Application of SFAS No. 71 to Regulated Operations*

During the second quarter of 2006, we determined that certain of our natural gas pipelines to be constructed have met the criteria set forth in SFAS No. 71 *Accounting for the Effects of Certain Types of Regulation* ("SFAS No. 71"), that would require us to capitalize certain costs that have previously been expensed.

SFAS No. 71 requires rate-regulated subsidiaries to account for, and report, assets and liabilities consistent with the economic effect of the way in which regulators establish rates, if the rates established are designed to recover the costs of providing the regulated service and if the competitive environment makes it probable that such rates can be charged and collected. In the second quarter of 2006, we determined that our pipeline subsidiaries have met these criteria, and therefore, we have capitalized as a regulatory asset certain pipeline development costs that were previously expensed in accordance with our capitalization policy.

Our application of SFAS No. 71 is based on the current regulatory environment, our current projected tariff rates, and our ability to collect those rates. Future regulatory developments and rate cases could impact this accounting. Although discounting of our maximum tariff rates may occur, we believe the criteria set forth in SFAS No. 71, for its application, are met and the use of regulatory accounting under SFAS No. 71 best reflects the results of future operations in the economic environment in which we will operate. Regulatory accounting requires us to record assets and liabilities that result from the rate-making process that would not be recorded under GAAP for non-regulated entities. We will continue to evaluate the application of regulatory accounting principles based on on-going changes in the regulatory and economic environment.

*Capitalized Exploratory Well Costs*

In April 2005, the FASB issued a Financial Staff Position ("FSP") No. FAS 19-1 *Accounting for Suspended Well Costs*, which amends FSP No. FAS 19, *Financial Accounting and Reporting by Oil and Gas Producing Companies* ("FSP No. FAS 19-1"). Under the provisions of FSP No. FAS 19-1, exploratory well costs continue to be capitalized after the completion of drilling when (i) the well has found a sufficient quantity of reserves to justify completion as a producing well and (ii) the enterprise is making sufficient progress assessing the reserves and the economic and operating viability of the project. If either condition is not met, or if an enterprise obtains information that raises substantial doubt about the economic or operational viability of the project, the exploratory well would be assumed to be impaired, and its costs, net of any salvage value, would be charged to expense. FSP No. FAS 19-1 provides several indicators that can assist an entity in demonstrating that sufficient progress is being made when assessing the reserves and economic viability of the project.

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

At June 30, 2006, our suspended well costs for wells on which drilling was completed more than one year ago were \$162,000 relating to a single well. There were no suspended well costs charged to expense in the three and six months ended June 30, 2006.

**NOTE 2—Property, Plant and Equipment**

Property, plant and equipment is comprised of LNG terminal and natural gas pipeline construction-in-progress expenditures, LNG site and related costs, investments in oil and gas properties, and fixed assets, as follows (in thousands):

	<u>June 30, 2006</u>	<u>December 31, 2005</u> (as adjusted)
<b>LNG TERMINAL COSTS</b>		
LNG terminal construction-in-progress	\$440,639	\$ 271,142
LNG site and related costs, net	<u>1,116</u>	<u>1,249</u>
Total LNG terminal costs	<u>441,755</u>	<u>272,391</u>
<b>NATURAL GAS PIPELINE COSTS</b>		
Pipeline construction-in-progress	<u>14,930</u>	<u>—</u>
Total natural gas pipeline costs	<u>14,930</u>	<u>—</u>
<b>OIL AND GAS PROPERTIES, successful efforts method</b>		
Proved	2,371	97
Unproved	878	1,600
Accumulated depreciation, depletion and amortization	<u>(98)</u>	<u>(57)</u>
Total oil and gas properties, net	<u>3,151</u>	<u>1,640</u>
<b>FIXED ASSETS</b>		
Computers and office equipment	3,938	3,611
Furniture and fixtures	1,302	1,145
Computer software	4,974	1,640
Leasehold improvements	2,143	1,757
Other	111	26
Accumulated depreciation	<u>(2,618)</u>	<u>(2,104)</u>
Total fixed assets, net	<u>9,850</u>	<u>6,075</u>
<b>PROPERTY, PLANT AND EQUIPMENT, net</b>	<u><u>\$469,686</u></u>	<u><u>\$ 280,106</u></u>

Our developing natural gas pipeline business is subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) in accordance with the Natural Gas Act of 1938 and the Natural Gas Policy Act of 1978, and we have determined that our pipelines to be constructed have met the criteria found in SFAS No. 71. Accordingly, we have applied the provisions of SFAS No. 71 to the affected pipeline subsidiaries in the second quarter of 2006.

As of June 30, 2006, pipeline construction-in-progress includes a \$12,343,000 regulatory asset. This regulatory asset represents costs that were previously expensed as pipeline development expenses before meeting the criteria in SFAS No. 71, as we were in the development stage of our pipeline business. In the second quarter of 2006, we determined that these costs met the capitalization criteria set forth in SFAS No. 71, and therefore, we recognized these costs as pipeline construction-in-progress and recorded a corresponding decrease to LNG receiving terminal and pipeline development expenses on our Consolidated Statement of Operations.

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

Natural gas pipeline costs also include amounts capitalized as an Allowance for Funds Used During Construction (“AFUDC”). The rates used in the calculation of AFUDC are determined in accordance with guidelines established by the FERC. AFUDC represents the cost of debt and equity funds used to finance our natural gas pipeline additions during construction. AFUDC is capitalized as a part of the cost of our natural gas pipelines. Under regulatory rate practices, we generally are permitted to recover AFUDC, and a fair return thereon, through our rate base after our natural gas pipelines are placed in service.

**NOTE 3—Investment in Limited Partnership**

We account for our 30% limited partnership investment in Freeport LNG Development, L.P. (“Freeport LNG”) using the equity method of accounting.

For the three and six months ended June 30, 2006, our equity share of the net losses of the limited partnership was \$2,343,000 and \$5,519,000, respectively. As of June 30, 2006, the basis of our investment in Freeport LNG was zero, and as a result, we did not record our share of the losses of the partnership for these periods because we did not guarantee any obligations and have not committed additional financial support to Freeport LNG at this time.

At June 30, 2006 and December 31, 2005, we had cumulative suspended losses of \$9,486,000 and \$3,968,000, respectively, related to our investment in Freeport LNG.

The financial position of Freeport LNG at June 30, 2006 and December 31, 2005, and the results of Freeport LNG’s operations for the three and six months ended June 30, 2006 and 2005, are summarized as follows (in thousands):

	June 30, 2006	December 31, 2005
Current assets	\$344,810	\$ 380,615
Construction-in-progress	412,707	246,351
Fixed assets, net, and other assets	9,354	9,309
Total assets	<u>\$766,871</u>	<u>\$ 636,275</u>
Current liabilities	\$ 57,416	\$ 53,533
Notes payable	740,874	595,766
Deferred revenue and other deferred credits	5,748	5,748
Partners’ deficit	(37,167)	(18,772)
Total liabilities and partners’ deficit	<u>\$766,871</u>	<u>\$ 636,275</u>

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

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>	
	<b>2006</b>	<b>2005</b>	<b>2006</b>	<b>2005</b>
Loss from continuing operations	<u>\$ (7,810)</u>	<u>\$ (4,009)</u>	<u>\$ (18,395)</u>	<u>\$ (6,821)</u>
Net loss	<u>(7,810)</u>	<u>(4,009)</u>	<u>(18,395)</u>	<u>(6,821)</u>
Cheniere's equity in net loss from limited partnership (1)(2)	<u>\$ (2,343)</u>	<u>\$ (1,203)</u>	<u>\$ (5,519)</u>	<u>\$ (2,046)</u>

- (1) As discussed above, we did not record the \$2,343,000 and \$5,519,000 losses in our Consolidated Statement of Operations for the three and six months ended June 30, 2006 because our investment basis was zero.
- (2) Our recorded equity in net loss was limited to \$127,000 and \$971,000, respectively, for the three and six months ended June 30, 2005 in our Consolidated Statement of Operations, as our investment basis had been reduced to zero, resulting in a suspended loss of \$1,075,000 at June 30, 2005.

**NOTE 4—Derivative Instruments**

*Interest Rate Derivative Instruments*

In connection with the closing of a credit agreement (the “Sabine Pass Credit Facility”) in February 2005, Sabine Pass LNG, L.P., a wholly-owned limited partnership (“Sabine Pass LNG”), entered into swap agreements (the “Sabine Swaps”) with HSBC Bank, USA and Société Générale. Under the terms of the Sabine Swaps, Sabine Pass LNG is able to hedge against rising interest rates, to a certain extent, with respect to its drawings under the Sabine Pass Credit Facility, up to a maximum amount of \$700,000,000. The Sabine Swaps have the effect of fixing the LIBOR component of the interest rate payable under the Sabine Pass Credit Facility with respect to hedged drawings under the Sabine Pass Credit Facility up to a maximum of \$700,000,000, at 4.49% from July 25, 2005 through March 25, 2009 and at 4.98%, from March 26, 2009 through March 25, 2012. The final termination date of the Sabine Swaps is March 25, 2012.

In connection with the closing of a credit agreement (the “Term Loan”) on August 31, 2005, Cheniere LNG Holdings, LLC, a wholly-owned subsidiary (“Cheniere LNG Holdings”), entered into interest rate swap agreements with Credit Suisse (the “Term Loan Swaps”) to hedge against rising interest rates. Under the terms of the Term Loan Swaps, Cheniere LNG Holdings hedged an initial notional amount of \$600,000,000. The notional amount declines in accordance with anticipated principal payments under the Term Loan. The Term Loan Swaps have the effect of fixing the LIBOR rate component of the interest rate payable under the Term Loan at 3.75% from August 31, 2005 to September 27, 2007, at 3.98% from September 28, 2007 to September 27, 2008 and at 5.98% from September 28, 2008 to September 30, 2010. The final termination date of the Term Loan Swaps is September 30, 2010.

*Accounting for Hedges*

SFAS No. 133, as amended and interpreted by other related accounting literature, establishes accounting and reporting standards for derivative instruments. Under SFAS No. 133, we are required to record derivatives on our balance sheet as either an asset or liability measured at their fair value, unless exempted from derivative treatment under the normal purchase and normal sale exception. Changes in the fair value of derivatives are recognized currently in earnings unless specific hedge criteria are met. These criteria require that the derivative is determined to be effective as a hedge and that it is formally documented and designated as a hedge.

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These criteria require that the derivative is determined to be effective as a hedge and that it is formally documented and designated as a hedge.

We have determined that the Sabine Swaps and the Term Loan Swaps (collectively, the “Swaps”) qualify as cash flow hedges within the meaning of SFAS No. 133 and have designated them as such. At their inception, we determined the hedging relationship of the Swaps and the underlying debt to be highly effective. We will continue to assess the hedge effectiveness of the Swaps on a quarterly basis in accordance with the provisions of SFAS No. 133.

SFAS No. 133 provides that the effective portion of the gain or loss on a derivative instrument designated and qualifying as a cash flow hedging instrument be reported as a component of other comprehensive income (“OCI”) and be reclassified into earnings in the same period during which the hedged forecasted transaction affects earnings. In our case, the impact on earnings is a reduction of \$1,973,000 and \$2,683,000, respectively, in interest expense for the three and six months ended June 30, 2006. The ineffective portion of the gain or loss on the derivative instrument, if any, must be recognized currently in earnings. For the three and six months ended June 30, 2006, we have recognized net derivative gains of \$162,000 and \$923,000, respectively, into earnings. If the forecasted transaction is no longer probable of occurring, the associated gain or loss recorded in OCI is recognized currently in earnings.

*Summary of Derivative Values*

The following table reflects the amounts that are recorded as assets and liabilities at June 30, 2006 for our derivative instruments (in thousands):

Current derivative assets	\$11,618
Derivative receivables (1)	3,088
Long-term derivative assets	<u>29,891</u>
Total derivative assets	<u>44,597</u>
Current derivative liabilities	—
Derivative payables	—
Long-term derivative liabilities	—
Total derivative liabilities	—
Net derivative assets	<u>\$44,597</u>

(1) Included in accounts receivable on the Consolidated Balance Sheet.

Below is a reconciliation of our net derivative liabilities to our accumulated OCI at June 30, 2006 (in thousands):

Net derivative asset	\$ 44,597
Effective non-cash items	(156)
Ineffective non-cash items	<u>(1,359)</u>
Accumulated OCI before income tax	43,082
Income taxes on OCI	<u>(15,079)</u>
Accumulated OCI after income tax	<u>\$ 28,003</u>

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The maximum length of time over which we have hedged our exposure to the variability in future cash flows for forecasted transactions is seven years under the Swaps. As of June 30, 2006, \$15,034,000 of accumulated net deferred gains on the Swaps, currently included in OCI, are expected to be reclassified to earnings during the next twelve months, assuming no change in the LIBOR forward curves at June 30, 2006. The actual amounts that will be reclassified will likely vary based on the probability that interest rates will, in fact, change. Therefore, management is unable to predict what the actual reclassification from OCI to earnings (positive or negative) will be for the next twelve months.

**NOTE 5—Accrued Liabilities**

Accrued liabilities consist of the following (in thousands):

	June 30, 2006	December 31, 2005
LNG terminal construction costs	\$41,150	\$ 39,728
Accrued interest expense and related fees	6,427	4,937
Debt issuance costs	190	3,083
Payroll	—	2,460
LNG terminal and pipeline development expenses	1,767	1,534
Professional and legal services	751	1,043
Pipeline construction costs	353	—
Fixed assets	1,476	—
Other accrued liabilities	1,427	1,759
Accrued liabilities	<u>\$53,541</u>	<u>\$ 54,544</u>

**NOTE 6—Long-Term Debt**

As of June 30, 2006 and December 31, 2005, our long-term debt was comprised of the following (in thousands):

	June 30, 2006	December 31, 2005
Sabine Pass Credit Facility	\$ 149,000	\$ —
Convertible Senior Unsecured Notes	325,000	325,000
Term Loan	595,500	598,500
	1,069,500	923,500
Less: Current portion—Term Loan	(6,000)	(6,000)
Total long-term debt	<u>\$1,063,500</u>	<u>\$ 917,500</u>

*Sabine Pass Credit Facility*

In February 2005, Sabine Pass LNG entered into the \$822,000,000 Sabine Pass Credit Facility with an initial syndicate of 47 financial institutions. Société Générale serves as the administrative agent and HSBC Bank, USA serves as collateral agent. The Sabine Pass Credit Facility will be used to fund a substantial majority of the costs of constructing and placing into operation Phase 1 of our Sabine Pass LNG receiving terminal. Unless Sabine Pass LNG decides to terminate availability earlier, the Sabine Pass Credit Facility will be available until no later than April 1, 2009, after which time any unutilized portion of the Sabine Pass Credit Facility will be permanently canceled. Before Sabine Pass LNG could make an initial borrowing under the Sabine Pass Credit Facility, it was required to provide evidence that it had received equity contributions in an amount sufficient to fund \$233,715,000 of the project costs. As of

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December 31, 2005, the \$233,715,000 in equity contributions had been funded. At December 31, 2005, there were no borrowings outstanding; however, as of June 30, 2006, \$149,000,000 had been drawn under the Sabine Pass Credit Facility.

Borrowings under the Sabine Pass Credit Facility bear interest at a variable rate equal to LIBOR plus the applicable margin. The applicable margin varies from 1.25% to 1.625% during the term of the Sabine Pass Credit Facility. The Sabine Pass Credit Facility provides for a commitment fee of 0.50% per annum on the daily committed, undrawn portion of the facility. Annual administrative fees must also be paid to the administrative and collateral agents. The principal of loans made under the Sabine Pass Credit Facility must be repaid in semi-annual installments commencing six months after the later of (i) the date that substantial completion of the project occurs under the engineering, procurement and construction agreement (“EPC”) and (ii) the commercial start date under the Total LNG USA, Inc. (“Total”) Terminal Use Agreement (“TUA”). Sabine Pass LNG may specify an earlier date to commence repayment upon satisfaction of certain conditions. In any event, payments under the Sabine Pass Credit Facility must commence no later than October 1, 2009, and all obligations under the Sabine Pass Credit Facility mature and must be fully repaid by February 25, 2015.

The Sabine Pass Credit Facility contains customary conditions precedent to any borrowings, as well as customary affirmative and negative covenants. We were in compliance, in all material respects, with these covenants at June 30, 2006 and December 31, 2005. Sabine Pass LNG has obtained, and may in the future seek, consents, waivers and amendments to the Sabine Pass Credit Facility documents. The obligations of Sabine Pass LNG under the Sabine Pass Credit Facility are secured by all of Sabine Pass LNG’s personal property, including the TUAs with Total and Chevron USA, Inc. (“Chevron”) and the partnership interests in Sabine Pass LNG.

During the construction period, all interest costs, including amortization of related debt issuance costs and commitment fees, will be capitalized as part of the total cost of Phase 1 of our Sabine Pass LNG receiving terminal. As of June 30, 2006 and December 31, 2005, \$10,304,000 and \$5,323,000, respectively, in commitment fees, interest costs, impact of interest rate swaps and amortization of debt issuance costs had been capitalized and included in LNG terminal construction-in-progress.

*Convertible Senior Unsecured Notes*

In July 2005, we consummated a private offering of \$325,000,000 aggregate principal amount of 2.25% Convertible Senior Unsecured Notes (the “Notes”) due August 1, 2012 to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933 (the “Securities Act”). The Notes are convertible into our common stock pursuant to the terms of the indenture governing the Notes at an initial conversion rate of 28.2326 per \$1,000 principal amount of the Notes, which is equal to a conversion price of approximately \$35.42 per share. We may redeem some or all of the Notes on or before August 1, 2012, for cash equal to 100% of the principal plus any accrued and unpaid interest if in the previous ten trading days the volume-weighted average price of our common stock exceeds \$53.13, subject to adjustment, for at least five consecutive trading days. In the event of such a redemption, we will make an additional payment equal to the present value of all remaining scheduled interest payments through August 1, 2012, discounted at the U.S. Treasury rate plus 50 basis points. The indenture governing the Notes contains customary reporting requirements.

Concurrent with the issuance of the Notes, we also entered into hedge transactions in the form of an issuer call spread (consisting of a purchase and a sale of call options on our common stock) with an affiliate of the initial purchaser of the Notes, having a term of two years, and a net cost to us of

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\$75,703,000. These hedge transactions are expected to offset potential dilution from conversion of the Notes up to a market price of \$70.00 per share. The net cost of the hedge transactions is recorded as a reduction to Additional Paid-in-Capital on our Consolidated Balance Sheet in accordance with the guidance of the Emerging Issues Task Force (“EITF”) Issue 00-19, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company’s Own Stock* Net proceeds from the offering were \$239,786,000, after deducting the cost of the hedge transactions, the underwriting discount and related fees. As of June 30, 2006, no holders had elected to convert their Notes. Total interest expense recognized for the three and six months ended June 30, 2006 was \$2,174,000 and \$4,328,000, respectively, before interest capitalization of \$241,000 and \$482,000, respectively.

*Term Loan*

In August 2005, Cheniere LNG Holdings entered into the \$600,000,000 Term Loan with Credit Suisse. The Term Loan has an interest rate equal to LIBOR plus a 2.75% margin and matures on August 30, 2012. In connection with the closing, Cheniere LNG Holdings entered into the Term Loan Swaps with Credit Suisse to hedge the LIBOR interest rate component of the Term Loan. The blended rate of the Term Loan Swaps on the Term Loan results in an annual fixed interest rate of 7.25% (including the 2.75% margin) for the first five years (see Note 4—“Derivative Instruments”). On December 30, 2005, Cheniere LNG Holdings made the first required quarterly principal payment of \$1,500,000. Quarterly principal payments of \$1,500,000 are required through June 30, 2012, and a final principal payment of \$559,500,000 is required on August 30, 2012. A portion of the loan proceeds is controlled by Credit Suisse and is restricted as to its use.

At June 30, 2006, principal repayments on the Term Loan of \$6,000,000 were due within the next 12 months and are classified on the balance sheet as a current liability. Interest expense for the three and six months ended June 30, 2006 was \$12,143,000 and \$23,281,000, respectively, before interest capitalization of \$1,113,000 and \$2,212,000, respectively, and gains from the Term Loan Swaps of \$1,864,000 and \$2,550,000, respectively. The Term Loan contains customary affirmative and negative covenants. Cheniere LNG Holdings was in compliance with these covenants, in all material respects, at June 30, 2006. The obligations of Cheniere LNG Holdings are secured by its 100% equity interest in Sabine Pass LNG and its 30% limited partner equity interest in Freeport LNG.

**NOTE 7—Financial Instruments**

The estimated fair value of financial instruments is the amount at which the instrument could be exchanged currently between willing parties. The carrying amounts reported in the Consolidated Balance Sheet for cash and cash equivalents, accounts receivable and accounts payable approximate fair value due to their short-term nature. We use available marketing data and valuation methodologies to estimate the fair value of debt. This disclosure is presented in accordance with SFAS No. 107, *Disclosures about Fair Value of Financial Instruments*, and does not impact our financial position, results of operations or cash flows.



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Long-Term Debt (in thousands):

	June 30, 2006	
	Carrying Amount	Estimated Fair Value
Term Loan due 2012 (1)	\$ 589,500	\$ 589,500
2.25% Convertible Senior Unsecured Notes due 2012 (2)	325,000	393,656
Sabine Pass Credit Facility (3)	149,000	149,000
	<u>\$ 1,063,500</u>	<u>\$ 1,132,156</u>

- (1) The Term Loan bears interest based on a floating rate; therefore, the estimated fair value is deemed to equal the carrying amount of these notes.  
(2) The fair value of the Notes is based on the closing bid price as of June 30, 2006.  
(3) The Sabine Pass Credit Facility bears interest based on a floating rate; therefore, the estimated fair value is deemed to equal the carrying amount of these notes.

**NOTE 8—Income Taxes**

From our inception, we have reported annual net operating losses for both financial reporting purposes and for federal and state income tax reporting purposes. Accordingly, we are not presently a taxpayer and have not recorded a net liability for federal or state income taxes in any of the periods included in the accompanying financial statements. Our Consolidated Statement of Operations for the three and six months ended June 30, 2006 includes deferred income tax benefits of \$5,621,000 and \$13,033,000, respectively. The deferred income tax benefit recorded for the three and six months ended June 30, 2006 has been provided for in accordance with the guidance in paragraph 140 of SFAS No. 109 and EITF *Abstract*, Topic D-32, which, in certain circumstances, requires items reported in pre-tax accumulated OCI to be considered in the determination of the amount of tax benefit when a net operating loss occurs. In our situation, the specific circumstance relates to pre-tax accumulated OCI of \$43,082,000 recorded as of June 30, 2006 primarily related to our interest rate swaps (see Note 4—“Derivative Instruments” for additional discussion). The deferred tax benefit included in our Consolidated Statement of Operations for the three and six months ended June 30, 2006, represents the portion of the change in our tax asset valuation account that is allocable to the deferred income tax on items reported in accumulated OCI in our June 30, 2006 Consolidated Statement of Stockholders’ Equity.

Income tax benefit included in our reported net loss consists of the following (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005	2006	2005
Current federal income tax expense	\$ —	\$ —	\$ —	\$ —
Deferred federal income tax benefit	5,621	—	13,033	—
	<u>\$ 5,621</u>	<u>\$ —</u>	<u>\$ 13,033</u>	<u>\$ —</u>

In May 2006, the State of Texas enacted a new business tax that is imposed on our gross revenues to replace the State’s current franchise tax regime. The new legislation’s effective date is January 1, 2008, which means that our first Texas Margins Tax (“TMT”) return will not become due until May 15, 2008 and will be based on our 2007 operations. Although the new TMT is imposed on an entity’s gross revenue rather than on its net income, certain aspects of the tax make it similar to an income tax. In accordance with the guidance provided in SFAS No. 109, we have properly considered and will continue to account for the impact of the newly-enacted legislation in the determination of our reported state income tax liability.

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**NOTE 9—Net Income (Loss) Per Share**

Basic net income (loss) per share is computed by dividing the net income (loss) by the weighted average number of shares of common stock outstanding for the period. The computation of diluted net income (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 our earnings.

The following table reconciles basic and diluted weighted average shares outstanding for the three and six months ended June 30, 2006 and 2005 (in thousands except for loss per share):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005 (as adjusted)	2006	2005 (as adjusted)
Weighted average common shares outstanding:				
Basic	54,369	53,757	54,293	53,063
Dilutive common stock options (1)	—	—	—	—
Dilutive common stock warrants (1)	—	—	—	—
Dilutive Convertible Senior Unsecured Notes (1)	—	—	—	—
Diluted	<u>54,369</u>	<u>53,757</u>	<u>54,293</u>	<u>53,063</u>
Basic loss per share	\$ (0.07)	\$ (0.18)	\$ (0.36)	\$ (0.36)
Diluted loss per share	\$ (0.07)	\$ (0.18)	\$ (0.36)	\$ (0.36)

(1) Dilutive shares were not included in the calculation, as we had a net loss for the periods ended June 30, 2006 and 2005.

**NOTE 10—Other Comprehensive Income (Loss)**

The following table is a reconciliation of our net income (loss) to our comprehensive loss for the periods shown (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005 (as adjusted)	2006	2005 (as adjusted)
Net loss	\$ (3,619)	\$ (9,692)	\$ (19,430)	\$ (19,126)
Other comprehensive income (loss) items:				
Cash flow hedges, net of tax	10,437	(20,499)	24,205	(15,493)
Foreign currency translation	(34)	—	(34)	—
Comprehensive income (loss)	<u>\$ 6,784</u>	<u>\$ (30,191)</u>	<u>\$ 4,741</u>	<u>\$ (34,619)</u>

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**NOTE 11—Related Party Transactions**

From time to time, officers and employees may charter aircraft for company business travel. We entered into a letter agreement, or charter letter, with an unrelated third-party entity, Western Airways, Inc. (“Western”), that specified the terms under which it would provide for charter of a Challenger 600 aircraft. One of the Challenger 600 aircraft which could be provided by Western for such services was owned by Bramblebush, L.L.C. (the “LLC”). The LLC is owned and/or controlled by our Chairman and Chief Executive Officer, Charif Souki. Our Code of Business Conduct and Ethics prohibits potential conflicts of interest. Upon the recommendation of our Audit Committee, which determined that the terms of the charter letter were fair and in our best interest, our Board of Directors unanimously approved the terms of the charter letter in May 2005 and granted an exception under our Code of Business Conduct and Ethics in order to permit us to charter the Challenger 600 aircraft. For the three and six months ended June 30, 2006, we incurred zero and \$111,000, respectively, related to the charter of the Challenger 600 aircraft owned by the LLC.

**NOTE 12—Commitments and Contingencies**

In April 2006, Corpus Christi LNG, LLC, our wholly-owned subsidiary (“Corpus Christi LNG”), entered into an engineering, procurement and construction services agreement for preliminary work with La Quinta LNG Partners, LP (“La Quinta”). La Quinta is a limited partnership whose general partners are Zachry Construction Corporation and AMEC E&C Services, Inc. Under the terms of the agreement, La Quinta will provide Corpus Christi LNG with certain preliminary design, engineering, procurement, pipeline dismantlement, removal and construction, road construction and site preparation work on a reimbursable basis in connection with the Corpus Christi LNG receiving terminal. Payments anticipated to be made by Corpus Christi LNG to La Quinta for work performed under the agreement are not expected to exceed \$50,000,000.

In April 2006, Cheniere LNG Marketing, Inc., our wholly-owned subsidiary (“Cheniere Marketing”), entered into a 10-year Gas Purchase and Sale Agreement with PPM Energy, Inc. (“PPM”), a subsidiary of Scottish Power PLC. Upon completion of certain of our facilities, the agreement provides Cheniere Marketing with the ability to sell to PPM up to 600,000 MMBtus of natural gas per day at a Henry Hub-related market index price, and requires Cheniere Marketing to allocate to PPM a portion of the LNG that it procures under certain planned long-term LNG supply agreements.

In April 2006, Cheniere Creole Trail Pipeline, L.P., our wholly-owned subsidiary (“CCTP”), entered into a purchase order with ILVA S.p.A. (“ILVA”) for the purchase of approximately 15 miles of 42-inch pipe at an aggregate cost of approximately \$16,000,000. An initial payment of \$500,000 was made to ILVA in May 2006. Additional progress payments will be due on a periodic basis after specified production measures have been achieved. CCTP has the right to terminate the purchase order for its convenience, subject to making specified cancellation payments that begin at \$500,000 and increase, depending on the achievement of specified production measures, to 100% of the value after pipe forming but prior to shipment.

**NOTE 13—Business Segment Information**

We have four operating segments: LNG receiving terminal, natural gas pipeline, LNG and natural gas marketing, and oil and gas exploration and development. These segments reflect lines of business for which separate financial information is produced internally and are subject to evaluation by our chief operating decision makers in deciding how to allocate resources.

Our LNG receiving terminal segment is in various stages of developing three, 100% owned, LNG receiving terminal projects along the U.S. Gulf Coast at the following locations: Sabine Pass LNG in western Cameron Parish, Louisiana on the Sabine Pass Channel; Corpus Christi LNG near Corpus Christi, Texas; and Creole Trail LNG at the mouth of the Calcasieu Channel in central Cameron Parish, Louisiana. In addition, we own a 30% limited partner interest in a fourth project, Freeport LNG, located on Quintana Island near Freeport, Texas.

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Our natural gas pipeline segment is in various stages of developing three, 100% owned, natural gas pipelines in connection with our three LNG receiving terminals to provide access to North American natural gas markets. Development efforts to date have focused primarily on feasibility analysis and on advancing our pipeline projects through the regulatory review and authorization process.

Our LNG and natural gas marketing segment is in an early stage of development. To optimize the utilization of our LNG receiving terminal capacity, we intend to purchase LNG from foreign suppliers, arrange transportation of LNG to our network of LNG receiving terminals, arrange the transportation of revaporized natural gas through our pipelines and other interconnected pipelines and sell natural gas to buyers in the North American market. In addition, we also expect to enter into domestic natural gas purchase and sale transactions as part of our marketing activities.

Our oil and gas exploration and development segment explores for oil and natural gas using a regional database of approximately 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 active interpretation of our seismic data and generation of prospects, through participation in the drilling of wells, and through farm-out arrangements and back-in interests (a reversionary interest in oil and gas leases reserved by us) whereby the capital costs of such activities are borne primarily by industry partners. This segment participates in drilling and production operations with industry partners on the prospects that we generate.

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005 (as adjusted)	2006	2005 (as adjusted)
<b>Revenues:</b>				
LNG receiving terminal	\$ —	\$ —	\$ —	\$ —
Natural gas pipeline	—	—	—	—
LNG and natural gas marketing	—	—	—	—
Oil and gas exploration and development	413	689	835	1,425
Total	413	689	835	1,425
Corporate and other (1)	—	—	—	—
Total consolidated	<u>\$ 413</u>	<u>\$ 689</u>	<u>\$ 835</u>	<u>\$ 1,425</u>
<b>Net income (loss):</b>				
LNG receiving terminal	\$(15,152)	\$ (3,689)	\$(30,872)	\$ (8,293)
Natural gas pipeline (2)	10,480	(3,736)	8,812	(6,031)
LNG and natural gas marketing	(1,604)	—	(2,839)	—
Oil and gas exploration and development	(1,193)	104	(2,378)	(112)
Total	(7,469)	(7,321)	(27,277)	(14,436)
Corporate and other (1)	3,850	(2,371)	7,847	(4,690)
Total consolidated	<u>\$ (3,619)</u>	<u>\$ (9,692)</u>	<u>\$(19,430)</u>	<u>\$ (19,126)</u>

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**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – Continued**  
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	<u>June 30, 2006</u>	<u>December 31, 2005 (as adjusted)</u>
<b>Total assets:</b>		
LNG receiving terminal	\$ 962,652	\$ 783,837
Natural gas pipeline	17,188	—
LNG and natural gas marketing	1,487	—
Oil and gas exploration and development	3,610	2,328
Total	984,937	786,165
Corporate and other (1)	464,859	503,982
Total consolidated	<u>\$ 1,449,796</u>	<u>\$ 1,290,147</u>

(1) Includes corporate activities and certain intercompany eliminations.

(2) Natural gas pipeline income for the three and six months ended June 30, 2006, includes the impact of the regulatory asset recorded in the second quarter of 2006 as prescribed by SFAS No. 71. Not including the impact of the recognition of this regulatory asset, natural gas pipeline income would have been a net loss of \$2,206,000 and \$3,874,000 for the three and six months ended June 30, 2006, respectively.

**NOTE 14—Adjustment to Financial Statements – Successful Efforts**

As a result of our election to change our method of accounting for investments in oil and gas properties as discussed in Note 1—“Basis of Presentation”, adjustments have been made to the financial statements of prior periods as required by SFAS No. 154, *Accounting Changes and Error Corrections*. The effects of the change as it relates to financial data for the periods presented are displayed below (in thousands, except per share data):

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**(Unaudited)**

**Statement of Operations**  
**(Unaudited)**

	Three Months Ended June 30, 2006		
	As Computed Under Full Cost	As Reported Under Successful Efforts	Effect of Change
Revenues	\$ 413	\$ 413	\$ —
Operating costs and expenses:			
LNG receiving terminal and pipeline development expenses	(4,506)	(4,506)	—
Exploration costs	—	590	590
Oil and gas production costs	55	55	—
Depreciation, depletion and amortization	1,119	579	(540)
Ceiling test write-down	7,228	—	(7,228)
General and administrative expenses	12,444	12,444	—
Total operating costs and expenses	16,340	9,162	(7,178)
Loss from operations	(15,927)	(8,749)	7,178
Non-operating loss	(491)	(491)	—
Loss before income taxes	(16,418)	(9,240)	7,178
Income tax benefit	5,621	5,621	—
Net loss	\$ (10,797)	\$ (3,619)	\$ 7,178
Net loss per share—basic and diluted	\$ (0.20)	\$ (0.07)	\$ 0.13

	Three Months Ended June 30, 2005		
	As Originally Reported	As Reported Under Successful Efforts	Effect of Change
Revenues	\$ 689	\$ 689	\$ —
Operating costs and expenses:			
LNG receiving terminal and pipeline development expenses	5,350	5,350	—
Exploration costs	—	560	560
Oil and gas production costs	34	34	—
Depreciation, depletion and amortization	528	249	(279)
Ceiling test write-down	—	—	—
General and administrative expenses	5,600	5,600	—
Total operating costs and expenses	11,512	11,793	281
Loss from operations	(10,823)	(11,104)	(281)
Non-operating income	986	1,412	426
Loss before income taxes	(9,837)	(9,692)	145
Income tax provision	—	—	—
Net loss	\$ (9,837)	\$ (9,692)	\$ 145
Net loss per share—basic and diluted	\$ (0.18)	\$ (0.18)	\$ —

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

**Statement of Operations**  
**(Unaudited)**

	Six Months Ended June 30, 2006		
	As Computed Under Full Cost	As Reported Under Successful Efforts	Effect of Change
Revenues	\$ 835	\$ 835	\$ —
Operating costs and expenses:			
LNG receiving terminal and pipeline development expenses	3,807	3,807	—
Exploration costs	—	1,428	1,428
Oil and gas production costs	105	105	—
Depreciation, depletion and amortization	1,965	1,185	(780)
Ceiling test write-down	12,822	—	(12,822)
General and administrative expenses	25,625	25,625	—
Total operating costs and expenses	44,324	32,150	(12,174)
Loss from operations	(43,489)	(31,315)	12,174
Non-operating loss	(1,324)	(1,148)	176
Loss before income taxes	(44,813)	(32,463)	12,350
Income tax benefit	13,033	13,033	—
Net loss	\$ (31,780)	\$ (19,430)	\$ 12,350
Net loss per share—basic and diluted	\$ (0.59)	\$ (0.36)	\$ 0.23

	Six Months Ended June 30, 2005		
	As Originally Reported	As Reported Under Successful Efforts	Effect of Change
Revenues	\$ 1,425	\$ 1,425	\$ —
Operating costs and expenses:			
LNG receiving terminal and pipeline development expenses	10,775	10,775	—
Exploration costs	—	1,102	1,102
Oil and gas production costs	89	89	—
Depreciation, depletion and amortization	1,055	453	(602)
Ceiling test write-down	—	—	—
General and administrative expenses	10,590	10,590	—
Total operating costs and expenses	22,509	23,009	500
Loss from operations	(21,084)	(21,584)	(500)
Non-operating income and minority interest	2,031	2,458	427
Loss before income taxes	(19,053)	(19,126)	(73)
Income tax provision	—	—	—
Net loss	\$ (19,053)	\$ (19,126)	\$ (73)
Net loss per share—basic and diluted	\$ (0.36)	\$ (0.36)	\$ —

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

**Balance Sheet**  
**(Unaudited)**

	June 30, 2006		
	As Computed Under Full Cost	As Reported Under Successful Efforts	Effect of Change
Current assets	\$ 815,773	\$ 815,773	\$ —
Oil and gas properties, net	8,776	3,151	(5,625)
Other property, plant and equipment, net	466,535	466,535	—
Total property, plant and equipment, net	475,311	469,686	(5,625)
Other non-current assets	164,337	164,337	—
Total assets	<u>\$ 1,455,421</u>	<u>\$ 1,449,796</u>	<u>\$ (5,625)</u>
Current liabilities	\$ 59,690	\$ 59,690	\$ —
Non-current liabilities	1,104,559	1,104,559	—
Common stock	166	166	—
Additional paid-in capital	378,130	378,130	—
Accumulated deficit	(115,093)	(120,718)	(5,625)
Accumulated other comprehensive income	27,969	27,969	—
Total stockholders' equity	<u>291,172</u>	<u>285,547</u>	<u>(5,625)</u>
Total liabilities and stockholders' equity	<u>\$ 1,455,421</u>	<u>\$ 1,449,796</u>	<u>\$ (5,625)</u>
	December 31, 2005		
	As Originally Reported	As Adjusted	Effect of Change
Current assets	\$ 871,463	\$ 871,463	\$ —
Oil and gas properties, net	19,617	1,640	(17,977)
Other property, plant and equipment, net	278,466	278,466	—
Total property, plant and equipment, net	298,083	280,106	(17,977)
Other non-current assets	138,578	138,578	—
Total assets	<u>\$ 1,308,124</u>	<u>\$ 1,290,147</u>	<u>\$ (17,977)</u>
Current liabilities	\$ 61,322	\$ 61,322	\$ —
Non-current liabilities	960,284	960,284	—
Common stock	164	164	—
Additional paid-in capital	375,551	375,551	—
Deferred compensation	(9,684)	(9,684)	—
Accumulated deficit	(83,311)	(101,288)	(17,977)
Accumulated other comprehensive income	3,798	3,798	—
Total stockholders' equity	<u>286,518</u>	<u>268,541</u>	<u>(17,977)</u>
Total liabilities and stockholders' equity	<u>\$ 1,308,124</u>	<u>\$ 1,290,147</u>	<u>\$ (17,977)</u>



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

**Statement of Cash Flows**  
**(Unaudited)**

	Six Months Ended June 30, 2006		
	As Computed Under Full Cost	As Reported Under Successful Efforts	Effect of Change
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net loss	\$ (31,780)	\$ (19,430)	\$ 12,350
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation, depletion and amortization	1,965	1,185	(780)
Ceiling test write-down	12,822	—	(12,822)
Impairment of unproved properties	—	323	323
Exploration dry holes	—	540	540
Other adjustments	(892)	(892)	—
Changes in operating assets and liabilities	(16,871)	(16,871)	—
<b>NET CASH USED IN OPERATING ACTIVITIES</b>	<b>(34,756)</b>	<b>(35,145)</b>	<b>(389)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Oil and gas property additions, net of sales	(2,965)	(2,576)	389
Other cash flows from other investing activities	(140,795)	(140,795)	—
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(143,760)</b>	<b>(143,371)</b>	<b>389</b>
<b>NET CASH PROVIDED BY FINANCING ACTIVITIES</b>	<b>143,532</b>	<b>143,532</b>	<b>—</b>
<b>NET DECREASE IN CASH AND CASH EQUIVALENTS</b>	<b>(34,984)</b>	<b>(34,984)</b>	<b>—</b>
<b>CASH AND CASH EQUIVALENTS—BEGINNING OF PERIOD</b>	<b>692,592</b>	<b>692,592</b>	<b>—</b>
<b>CASH AND CASH EQUIVALENTS—END OF PERIOD</b>	<b>\$ 657,608</b>	<b>\$ 657,608</b>	<b>\$ —</b>
	Six Months Ended June 30, 2005		
	As Originally Reported	As Reported Under Successful Efforts	Effect of Change
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net loss	\$ (19,053)	\$ (19,126)	\$ (73)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation, depletion and amortization	1,055	453	(602)
Impairment of unproved properties	—	578	578
Other adjustments	3,204	3,204	—
Changes in operating assets and liabilities	14,340	14,340	—
<b>NET CASH USED IN OPERATING ACTIVITIES</b>	<b>(454)</b>	<b>(551)</b>	<b>(97)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Oil and gas property additions, net of sales	(896)	(799)	97
Other cash flows from other investing activities	(120,492)	(120,492)	—
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(121,388)</b>	<b>(121,291)</b>	<b>97</b>
<b>NET CASH USED IN FINANCING ACTIVITIES</b>	<b>(14,784)</b>	<b>(14,784)</b>	<b>—</b>
<b>NET DECREASE IN CASH AND CASH EQUIVALENTS</b>	<b>(136,626)</b>	<b>(136,626)</b>	<b>—</b>
<b>CASH AND CASH EQUIVALENTS—BEGINNING OF PERIOD</b>	<b>308,443</b>	<b>308,443</b>	<b>—</b>
<b>CASH AND CASH EQUIVALENTS—END OF PERIOD</b>	<b>\$ 171,817</b>	<b>\$ 171,817</b>	<b>\$ —</b>

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

**NOTE 15—Share-Based Compensation**

We have granted options to purchase common stock to employees, consultants and outside directors under the Cheniere Energy, Inc. Amended and Restated 1997 Stock Option Plan (“1997 Plan”) and the Cheniere Energy, Inc. Amended and Restated 2003 Stock Incentive Plan (“2003 Plan”). Prior to January 1, 2006, we accounted for grants made under the 1997 Plan and 2003 Plan using the intrinsic value method under the recognition and measurement principles of Accounting Principles Board (“APB”) Opinion No. 25, *Accounting for Stock Issued to Employees* and related interpretations, and applied SFAS No. 123, *Accounting for Stock-Based Compensation*, as amended by SFAS No. 148, *Accounting for Stock-Based Compensation – Transition and Disclosure*, for disclosure purposes only. Under APB Opinion No. 25, stock-based compensation cost related to stock options was not recognized in net income since the options granted under those plans had exercise prices greater than or equal to the market value of the underlying stock on the date of grant.

Effective January 1, 2006, we adopted SFAS No. 123 (revised 2004), *Share-Based Payment*, which revised SFAS No. 123 and superseded APB No. 25. SFAS No. 123R requires that all share-based payments to employees be recognized in the financial statements based on their fair values at the date of grant. The calculated fair value is recognized as expense (net of any capitalization) over the requisite service period, net of estimated forfeitures, using the straight-line method under SFAS No. 123R. We consider many factors when estimating expected forfeitures, including types of awards, employee class and historical experience. The statement was adopted using the modified prospective method of application, which requires compensation expense to be recognized in the financial statements for all unvested stock options beginning in the quarter of adoption. No adjustments to prior periods have been made as a result of adopting SFAS No. 123R. Under this transition method, compensation expense for share-based awards granted prior to January 1, 2006, but not yet vested as of January 1, 2006, and not previously amortized through the pro forma disclosures required by SFAS No. 123, will be recognized in our financial statements over their remaining service period. The cost was based on the grant-date fair value estimated in accordance with the original provisions of SFAS No. 123. As allowed by SFAS No. 123, compensation cost associated with forfeited options was reversed for disclosure purposes in the period of forfeiture. As required by SFAS No. 123R, compensation expense recognized in future periods for share-based compensation granted prior to adoption of the standard will be adjusted for the effects of estimated forfeitures.

For the six months ended June 30, 2006 and 2005, the total stock-based compensation expense recognized in our net loss was \$10,896,000 and \$1,694,000, respectively. The impact of adopting SFAS No. 123R on the first six months of our 2006 Consolidated Statement of Operations was an increase in expenses of \$8,720,000, with a corresponding increase in our loss from operations, loss before income taxes and minority interest, and net loss resulting from the first-time recognition of compensation expense associated with employee stock options. The impact on our basic and diluted net loss per common share was an increase in per share net loss of \$0.16. For the six months ended June 30, 2006 and 2005, the total stock-based compensation cost capitalized as part of the cost of capital assets was \$584,000 and \$84,000, respectively.

The total unrecognized compensation cost at June 30, 2006 relating to non-vested share-based compensation arrangements granted under the 1997 Plan and 2003 Plan, before any capitalization, was \$72,953,000. That cost is expected to be recognized over six years, with a weighted average period of 2.2 years.

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

The adoption of SFAS No. 123R has no effect on net cash flow. Had we been a taxpayer, we would have recognized cash flow resulting from tax deductions in excess of recognized compensation cost as a financing cash flow. We received total proceeds from the exercise of stock options of \$1,717,000 and \$1,509,000 in the six months ended June 30, 2006 and 2005, respectively.

The following table illustrates the pro forma net income and earnings per share that would have resulted in the three and six months ended June 30, 2005 from recognizing compensation expense associated with accounting for employee stock-based awards under the provisions of SFAS No. 123. The reported and pro forma net income and earnings per share for the three and six months ended June 30, 2006 are provided for comparative purposes only, as stock-based compensation expense is recognized in the financial statements under the provisions of SFAS No. 123R (in thousands, except per share data).

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005 (as adjusted)	2006	2005 (as adjusted)
Net loss as reported	\$ (3,619)	\$ (9,692)	\$ (19,430)	\$ (19,126)
Add: Stock-based employee compensation included in net loss (1)	5,296	822	10,896	1,694
Deduct:				
Total stock-based employee compensation expense determined under fair value method for all awards, net of related income				
tax (1)(2)	(5,296)	(4,609)	(10,896)	(6,887)
Pro forma net loss	\$ (3,619)	\$ (13,479)	\$ (19,430)	\$ (24,319)
Net loss per share				
Basic and diluted—as reported	\$ (0.07)	\$ (0.18)	\$ (0.36)	\$ (0.36)
Basic and diluted—pro forma	\$ (0.07)	\$ (0.25)	\$ (0.36)	\$ (0.46)

(1) Three and six months conformed to 2006 presentation.

(2) Fair value of stock options computed using Black-Scholes-Merton option pricing model and the value of non-vested stock based on intrinsic value in accordance with SFAS No. 123R and SFAS No. 123.

#### *Stock Options*

During the first six months of 2006, we issued options to purchase 474,720 shares of our common stock under the 2003 Plan. This included options to purchase 129,720 shares, granted to new employees as hiring incentives, having an exercise price equal to the stock price on the date of grant, graded vesting over four years, and a 10-year contractual life; an option to purchase 300,000 shares granted to our Chairman of the Board and Chief Executive Officer having an exercise price of \$90.00, graded vesting over three years beginning in March 2010, and a 10-year contractual life; a fully vested option to purchase 25,000 shares granted to one of our directors having an exercise price equal to the stock price on the date of grant and a 10-year contractual life; and an option to purchase 20,000 shares having an exercise price equal to the stock price on the date of grant, graded vesting over two years, and a five-year contractual life granted to a consultant in exchange for services. These options are being accounted for in accordance with the guidance in SFAS No. 123R, with the exception of the consultant grant, which is being accounted for in accordance with the relevant accounting guidance for equity instruments granted to a non-employee.

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

We estimate the fair value stock options under SFAS No. 123R at the date of grant using a Black-Scholes-Merton valuation model, which is consistent with the valuation technique we previously utilized to value options for the footnote disclosures required under SFAS No. 123. The following table provides the weighted average assumptions used in the Black-Scholes-Merton option valuation model to value options granted in the three and six months ended June 30, 2006 and 2005, respectively. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant. The expected term (estimated period of time outstanding) of options granted in 2006 is based on the “simplified” method of estimating expected term for “plain vanilla” options allowed by Securities and Exchange Commission (“SEC”) Staff Accounting Bulletin No. 107, and varies based on the vesting period and contractual term of the option. Prior to 2006, the expected term was based on our historical experience and estimate of future behavior of employees. Expected volatility for options granted in 2006 is based on an equally weighted average of the implied volatility of exchange traded options on our common stock expiring more than one year from the measurement date, and historical volatility of our common stock for a period equal to the option’s expected life. Prior to 2006, estimated volatility was based solely on the historical volatility of our common stock for a period equal to the option’s expected life. We have not declared dividends on our common stock.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2006	2005 (as adjusted)	2006	2005 (as adjusted)
Risk-free rate	—	3.6-4.1%	4.3-5.2%	3.6-4.4%
Expected life (in years)	—	6.8	6.9	6.8
Expected volatility range	—	80-84%	52-69%	80-101%
Weighted average volatility	—	88%	66%	97%
Expected dividends	—	0.0%	0.0%	0.0%

The table below provides a summary of option activity under the combined plans as of June 30, 2006, and changes during the six months then ended:

	Options (in thousands)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2006	5,125	\$ 28.66		
Granted	475	71.43		
Exercised	(292)	37.74		
Forfeited or Expired	—	—		
Outstanding at June 30, 2006	5,308	33.69	7.7	\$ 48,706
Exercisable at June 30, 2006	1,053	\$ 11.36	4.5	\$ 27,093

The weighted average grant-date fair value of options granted during the six months ended June 30, 2006 and 2005 was \$23.55 and \$20.24, respectively. The total intrinsic value of options exercised during the six months ended June 30, 2006 and 2005 was \$9,014,000 and \$17,056,000, respectively.

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

*Stock and Non-Vested Stock*

We have granted stock and non-vested stock to employees and outside directors under the 2003 Plan. Prior to January 1, 2006, we accounted for grants of non-vested stock using the intrinsic value method under the recognition and measurement principles of APB No. 25 and recognized the computed value of the non-vested stock in stockholders' equity as an increase in additional paid-in-capital and a corresponding reduction in stockholders' equity attributable to deferred compensation. The balance in deferred compensation was amortized ratably over the vesting period to non-cash compensation expense (before any capitalization) with a corresponding decrease in the deferred compensation balance.

Under SFAS No. 123R, grants of non-vested stock continue to be accounted for on an intrinsic value basis. No recognition of deferred compensation is made in stockholders' equity. Instead, the amortization of the calculated value of non-vested stock grants is accounted for as a charge to non-cash compensation and an increase in additional paid-in-capital over the requisite service period. With the adoption of SFAS No. 123R, we offset the remaining unamortized deferred compensation balance (\$9,684,000 at December 31, 2005) in stockholders' equity against additional paid-in-capital. Amortization of the remaining unamortized balance will continue under SFAS No. 123R as described above.

In January 2006, 78,671 shares having three-year graded vesting were issued to certain of our executive officers. In the six months ended June 30, 2006, a total of 100,780 shares of non-vested stock having four-year graded vesting were issued to new employees.

The table below provides a summary of the status of our non-vested shares under the 2003 Plan as of June 30, 2006, and changes during the six months then ended (in thousands except for per share information):

	Non- Vested Shares	Weighted Average Grant-Date Fair Value Per Share
Non-vested at January 1, 2006	550	\$ 21.06
Granted (1)	179	39.63
Vested	(221)	22.59
Forfeited	—	—
Non-vested at June 30, 2006	<u>508</u>	<u>\$ 26.93</u>

(1) Includes an award of 25,000 non-vested shares granted under the French Addendum to the 2003 Plan, which were not issued and outstanding at June 30, 2006.

The weighted average grant-date fair value of non-vested stock granted during the six months ended June 30, 2006 and 2005 was \$39.63 and zero, respectively. The total grant-date fair value of shares vested during the six months ended June 30, 2006 and 2005 was \$1,710,000 and \$1,716,000, respectively.

*Share-Based Plan Descriptions and Information*

Our 1997 Plan provides for the issuance of stock options to purchase up to 5,000,000 shares of our common stock, all of which have been granted. Non-qualified stock options were granted to employees, contract service providers and outside directors. Option terms for the remaining unexercised options are five years with vesting that generally occurs on a graded basis over three years.

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

Awards providing for the issuance of up to an aggregate of 11,000,000 shares of our common stock may be made under our 2003 Plan. These awards may be in the form of non-qualified stock options, incentive stock options, purchased stock, restricted (non-vested) stock, bonus (unrestricted) stock, stock appreciation rights, phantom stock, and other stock-based performance awards deemed by the Compensation Committee to be consistent with the purposes of the 2003 Plan. To date, the only awards made by the Compensation Committee have been in the form of non-qualified stock options, restricted stock and bonus stock. Beginning in 2005, stock options granted to employees as hiring incentives have been granted at the money with 10-year terms and graded vesting over four years. Prior to that time, stock options granted as hiring incentives were granted at the money with five-year terms and graded vesting over three years. Retention grants made to employees provide for exercise prices at or in excess of the stock price on the grant date, 10-year terms, and graded vesting over three years, which commences on the fourth anniversary of the grant date. Restricted stock that has been granted as a hiring incentive vests over four years on a graded basis, while restricted stock granted from a bonus pool vests over three years. Shares issued under the 2003 Plan are generally newly issued shares.

**NOTE 16—Subsequent Events**

In July 2006, Sabine Pass LNG closed a \$1.5 billion Amended and Restated Credit Agreement with Société Générale, HSBC Bank, USA and other lenders named therein that will mature on July 1, 2015 (“Amended Sabine Pass Credit Facility”). The Amended Sabine Pass Credit Facility amends and restates Sabine Pass LNG’s \$822,000,000 Sabine Pass Credit Facility due February 2015, and will be available for draws to pay project costs incurred during construction of Sabine Pass LNG’s receiving terminal.

In connection with the closing of the Amended Sabine Pass Credit Facility, Sabine Pass LNG entered into additional interest rate swap agreements with HSBC Bank USA and Société Générale. The new swap agreements, along with similar agreements entered into in connection with the closing of the original Sabine Pass Credit Facility in February 2005, have the combined effect of fixing the LIBOR component of the interest rate payable on borrowings up to a maximum of \$1.25 billion at a blended rate of 5.26% from July 25, 2006 through July 1, 2015.

In July 2006, Sabine Pass LNG entered into contracts with Bechtel Corporation, Zachry Construction Corporation and Diamond LNG LLC (a subsidiary of Mitsubishi Heavy Industries Ltd.) and Remedial Construction Services, L.P. in connection with our 1.4 billion cubic feet per day expansion at our Sabine Pass LNG receiving terminal.

**ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**  
**INFORMATION REGARDING FORWARD-LOOKING STATEMENTS**

This quarterly report contains certain statements that are, or may be deemed to be, “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). 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 that we expect to commence or complete construction or commence operation of each of our proposed liquefied natural gas (“LNG”) receiving terminals or our proposed pipelines, or any expansions or extensions thereof, by certain dates, or at all;
- statements that we expect to receive Draft Environmental Impact Statements or Final Environmental Impact Statements from the Federal Energy Regulatory Commission (“FERC”) by certain dates, or at all, or that we expect to receive an order from the FERC authorizing us to construct and operate proposed LNG receiving terminals or proposed pipelines by certain dates, or at all;
- statements regarding future levels of domestic or foreign natural gas production or consumption or future levels of LNG imports into North America or sales of natural gas in North America, regardless of the source of such information, or the transportation or other infrastructure or prices related to natural gas, LNG or other hydrocarbon products;
- statements regarding any financing transactions or arrangements, or ability to enter into such transactions, whether on the part of Cheniere or at the project level, including financing arrangements for which we may have received commitment letters;
- statements relating to the construction of our proposed LNG receiving terminals and our proposed pipelines, including statements concerning the engagement of any engineering, procurement and construction (“EPC”) contractor, or any engineering, procurement, construction and maintenance (“EPCM”) contractor, and the anticipated terms and provisions of any agreement with an EPC or EPCM contractor, and anticipated costs related thereto;
- statements regarding any terminal use agreement (“TUA”) or other agreement to be entered into or performed substantially in the future, including any cash distributions and revenues anticipated to be received and the anticipated timing thereof, and statements regarding the amounts of total regasification capacity that is, or may become subject to, TUAs or other contracts;
- statements that our proposed LNG receiving terminals and pipelines, when completed, will have certain characteristics, including amounts of regasification and storage capacities, a number of storage tanks and docks, pipeline deliverability and the number of pipeline interconnections, if any;
- statements regarding possible expansions of the currently projected size of any of our proposed LNG receiving terminals;

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- statements regarding our business strategy, our business plans or any other plans, forecasts or objectives, any or all of which are subject to change;
- statements regarding any Securities and Exchange Commission (“SEC”) or other governmental or regulatory inquiry or investigation;
- statements regarding anticipated legislative, governmental, regulatory, administrative or other public body actions, requirements, permits or decisions;
- statements regarding our anticipated LNG supply and natural gas marketing activities; and
- any other statements that relate to non-historical or future information.

These forward-looking statements are often identified by the use of terms and phrases such as “achieve,” “anticipate,” “believe,” “estimate,” “expect,” “forecast,” “plan,” “project,” “propose,” “strategy” 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.

Our actual results could differ materially from those anticipated in these forward-looking statements as a result of a variety of factors, including those discussed under “Risk Factors” in our annual report on Form 10-K for the year ended December 31, 2005. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by these risk factors. These forward-looking statements are made as of the date of this quarterly report. Other than as required under the securities laws, we assume no obligation to update or revise these forward-looking statements or provide reasons why actual results may differ.

## **BUSINESS AND OPERATIONS**

### **General**

We are engaged primarily in the business of developing and constructing, and then owning and operating, a network of three, 100% owned, onshore LNG receiving terminals, and related natural gas pipelines, along the Gulf Coast of the United States. We are also in the early stages of developing a business to market LNG and natural gas. To a limited extent, we are also engaged in oil and natural gas exploration and development activities in the Gulf of Mexico. We operate four business segments: LNG receiving terminal, natural gas pipeline, LNG and natural gas marketing, and oil and gas exploration and development.

### **LNG Receiving Terminal**

We have focused our development efforts on three, 100% owned, LNG receiving terminal projects at the following locations: Sabine Pass LNG in western Cameron Parish, Louisiana on the Sabine Pass Channel; Corpus Christi LNG near Corpus Christi, Texas; and Creole Trail LNG at the mouth of the Calcasieu Channel in central Cameron Parish, Louisiana. In addition, we own a 30% limited partner interest in a fourth project, Freeport LNG, located on Quintana Island near Freeport, Texas. Our three terminals have an aggregate designed regasification capacity of approximately 9.9 Bcf/d, subject to further expansion. We have entered into long-term TUAs with Total and Chevron USA for an aggregate of 2.0 Bcf/d of the available regasification capacity, and we have reserved 2.5 Bcf/d for use by Cheniere LNG Marketing, Inc., our wholly-owned subsidiary (“Cheniere Marketing”).



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Construction of Phase 1 of our Sabine Pass LNG receiving terminal commenced in March 2005, and we anticipate commencing operations at the terminal in 2008. In July 2006, we received authorization to construct Phase 2 of our Sabine Pass LNG receiving terminal from the FERC and issued a notice to proceed to our EPC and other contractors to begin construction. Preliminary work, including certain design and engineering work and site preparation work associated with construction of the Corpus Christi LNG receiving terminal, commenced during the second quarter of 2006, and we anticipate commencing operations at the receiving terminal in 2010. In June 2006, the FERC granted authorization under Section 3 of the Natural Gas Act, to site, construct and operate the Creole Trail LNG receiving terminal. The construction of the Creole Trail LNG receiving terminal is anticipated to commence in 2007, and we anticipate commencing operations at the receiving terminal in 2011.

### **Natural Gas Pipeline**

We anticipate developing and constructing natural gas pipelines from each of our three LNG receiving terminals to provide access to North American natural gas markets.

In February 2006, Cheniere Sabine Pass Pipeline L.P., our wholly-owned subsidiary ("Sabine Pass Pipeline L.P."), entered into an EPC pipeline contract with Willbros Engineers, Inc. ("Willbros") for the engineering, procurement, construction and construction management of our proposed Sabine Pass pipeline, a 16-mile, 42-inch diameter natural gas pipeline designed to transport 2.6 Bcf/d of natural gas from our Sabine Pass LNG receiving terminal, running easterly along a corridor that will allow for interconnection points with existing interstate and intrastate natural gas pipelines near Johnson Bayou, Louisiana. Subject to FERC approval of the implementation plan for construction of this pipeline, we anticipate beginning construction in early 2007 and anticipate commencing operations of the pipeline in the fourth quarter of 2007. For more information on this transaction, please refer to the discussion under the caption "Liquidity and Capital Resources – Natural Gas Pipelines – Sabine Pass Pipeline."

In June 2006, the FERC issued an order authorizing our subsidiary, Cheniere Creole Trail Pipeline, L.P. ("CCTP"), to construct a proposed 117-mile, dual 42-inch diameter pipeline, designed to transport 3.3 Bcf/d of natural gas from our proposed Creole Trail LNG receiving terminal, running north/northeasterly along a corridor through six Louisiana parishes and terminating near Rayne, Louisiana.

Cheniere Marketing has requested that CCTP seek approval from the FERC to authorize construction of an approximately 18-mile, 42-inch diameter pipeline interconnection between the Sabine Pass pipeline and the Creole Trail pipeline systems. Among other things, this would allow Cheniere Marketing to make deliveries of natural gas from the Sabine Pass LNG receiving terminal to delivery points on the Creole Trail pipeline system.

Cheniere Marketing is currently the sole holder of the entire capacity on both the Creole Trail pipeline and the Sabine Pass pipeline. Cheniere Marketing has entered into a 10-year gas purchase and sale agreement with PPM Energy, Inc., a subsidiary of Scottish Power PLC, pursuant to which Cheniere Marketing will make supplies of regasified LNG from the Sabine Pass LNG terminal available to PPM at delivery points on the Creole Trail pipeline.

### **LNG and Natural Gas Marketing**

Our LNG and natural gas marketing business is in its early stages of development. We intend to utilize a portion of our planned LNG receiving terminal regasification capacity through Cheniere Marketing, which currently has 1.5 Bcf/d and 1.0 Bcf/d of regasification capacity reserved at the Sabine Pass LNG and Corpus Christi LNG receiving terminals, respectively. To optimize the utilization of this capacity, we intend to purchase LNG from foreign suppliers, arrange transportation of LNG to our

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network of LNG receiving terminals, arrange the transportation of revaporized natural gas through our pipelines and other interconnected pipelines and sell natural gas to buyers in the North American market. In addition, we expect to enter into domestic natural gas purchase and sale transactions as part of our marketing activities.

### **Oil and Gas Exploration and Development**

Although our focus is primarily on the development of LNG-related businesses, we continue to be involved to a limited extent in oil and gas exploration, development and exploitation, and in exploitation of our existing 3D seismic database through prospect generation. We have historically focused on evaluating and generating drilling prospects using a regional and integrated approach with a large seismic database as a platform. From time to time, we will invest in drilling a share of these prospects and may pursue opportunities in other geographic locations as well.

## **LIQUIDITY AND CAPITAL RESOURCES**

We are primarily engaged in LNG-related business activities. Our three LNG receiving terminal projects, as well as our related proposed natural gas pipelines, will require significant amounts of capital and are subject to risks and delays in completion. In addition, our marketing business will need a substantial amount of capital for hiring employees, satisfying creditworthiness requirements of contracts and developing the systems necessary to implement our business strategy. Even if successfully completed and implemented, our LNG-related business activities are not expected to begin to operate and generate significant cash flows before 2008. As a result, our business success will depend to a significant extent upon our ability to obtain the funding necessary to construct our three LNG receiving terminals and related pipelines, 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 currently estimate that the cost of completing our three LNG receiving terminals will be approximately \$3 billion, before financing costs. In addition, we expect that capital expenditures of approximately \$800 million to \$1 billion will be required to construct our three related natural gas pipelines.

As of June 30, 2006, we had working capital of \$756.1 million. While we believe that we have adequate financial resources available to us through 2006, we must augment our existing sources of cash with significant additional funds in order to carry out our long-term business plan. We currently expect that our capital requirements will be financed in part through cash on hand, 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.

### **LNG Receiving Terminals**

#### ***Sabine Pass LNG***

We currently estimate that the cost of constructing Phase 1 of the Sabine Pass LNG receiving terminal will be approximately \$900 million to \$950 million, before financing costs. The Phase 2 expansion of the Sabine Pass LNG receiving terminal, including the construction of two tanks and related facilities, is estimated to cost approximately \$500 million to \$550 million, before financing costs. Funding for Phase 1 and Phase 2 is described below.

#### ***Amended Sabine Pass Credit Facility***

In February 2005, Sabine Pass LNG entered into the \$822.0 million Sabine Pass Credit Facility with a syndicate of financial institutions. This original credit facility was subsequently amended and

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restated on July 21, 2006. On such date, Sabine Pass LNG entered into a First Amended and Restated Credit Agreement with Société Générale (the “Agent”), HSBC Bank USA, National Association (the “Collateral Agent”) and the lenders named therein (the “Amended Sabine Pass Credit Facility”). The Amended Sabine Pass Credit Facility increased the amount of loans available to Sabine Pass LNG from \$822.0 million under the original credit facility to \$1.5 billion to finance Phase 1 and Phase 2 construction of the Sabine Pass LNG receiving terminal.

Principal must be repaid in semi-annual installments commencing upon the earlier of six months following the term conversion date (as defined in the Amended Sabine Pass Credit Facility) or such earlier date as may be specified by Sabine Pass LNG upon satisfaction of certain conditions on or before October 1, 2009. Scheduled amortization during the repayment period will be based upon a 19-year mortgage style semi-annual amortization profile with a balloon payment due on the final maturity date, July 1, 2015.

Borrowings under the Amended Sabine Pass Credit Facility bear interest at a variable rate equal to LIBOR plus the applicable margin. The applicable margin varies from 0.875% to 1.125% during the term of the Amended Sabine Pass Credit Facility. Interest is calculated on the unpaid principal amount outstanding and is payable semi-annually in arrears. A commitment fee of 0.50% per annum on the daily, undrawn portion of the lenders’ commitments is required. Administrative fees must also be paid annually to the Agent and the Collateral Agent.

The Collateral Agent holds all funds and other investments of Sabine Pass LNG in certain collateral accounts in the name of Sabine Pass LNG but under the exclusive control of the Collateral Agent.

In connection with the closing of the Amended Sabine Pass Credit Facility, Sabine Pass LNG entered into additional interest rate swap agreements with HSBC Bank USA and Société Générale. The new swap agreements, along with similar agreements entered into in connection with the closing of the original Sabine Pass Credit Facility in February 2005, have the combined effect of fixing the LIBOR component of the interest rate payable on borrowings up to a maximum of \$1.25 billion at a blended rate of 5.26% from July 25, 2006 through July 1, 2015.

### *Phase 1 EPC Agreement*

In December 2004, Sabine Pass LNG entered into a lump-sum turnkey EPC agreement with Bechtel Corporation (“Bechtel”) for the construction of Phase 1 of the Sabine Pass LNG receiving terminal. Under the EPC agreement, Bechtel agreed to provide Sabine Pass LNG with services for the engineering, procurement and construction of the receiving terminal. Except for certain third-party work specified in the EPC agreement, the work to be performed by Bechtel includes all of the work required to achieve substantial completion and final completion of Phase 1 of the LNG receiving terminal in accordance with the requirements of the EPC agreement. This lump-sum turnkey EPC agreement for Phase 1 remains in effect.

Sabine Pass LNG agreed to pay to Bechtel a contract price of \$646.9 million plus certain reimbursable costs for the work performed under the EPC agreement. This contract price is subject to adjustment for changes in certain commodity prices, contingencies, change orders and other items. As of July 30, 2006, change orders for \$86.2 million were approved, thereby increasing the total contract price to \$733.1 million. We anticipate additional change orders intended to mitigate ongoing effects of the 2005 hurricanes that would increase the contract price under the Phase 1 EPC agreement with Bechtel up to approximately \$34 million.

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### *Phase 2 Construction Agreements*

On July 21, 2006, Sabine Pass LNG entered into three construction agreements in connection with the Phase 2 expansion of the Sabine Pass LNG receiving terminal as follows:

Sabine Pass LNG and Bechtel have entered into an EPCM Agreement for Phase 2 pursuant to which Bechtel will provide design and engineering services for Phase 2 of the LNG receiving terminal, except for such portions to be designed by other contractors and suppliers of equipment, materials and services that contract directly with Sabine Pass LNG; construction management services to manage the construction of the LNG receiving terminal; and performance of a portion of the construction. Under the terms of the EPCM Agreement, Bechtel will be paid on a cost reimbursable basis, plus a fixed fee in the amount of \$18.5 million. A discretionary bonus may be paid to Bechtel at Sabine Pass LNG's sole discretion upon completion of Phase 2.

An EPC LNG Tank Contract, (the "Tank Contract") was entered into by Sabine Pass LNG with Zachry Construction Corporation ("Zachry") and Diamond LNG LLC ("Diamond" and collectively with Zachry, the "Tank Contractor"). The Tank Contractor will furnish all plant, labor, materials, tools, supplies, equipment, transportation, supervision, technical, professional and other services, and perform all operations necessary and required to satisfactorily engineer, procure and construct two Phase 2 tanks. In addition, Sabine Pass LNG has the option (to be elected on or before March 31, 2007) for the Tank Contractor to engineer, procure and construct a third tank at Phase 2, with the cost and completion date thereof to be agreed upon if such option is elected. The Tank Contract provides for compensating the Tank Contractor for a lump-sum, fixed price in the amount of approximately \$139.1 million (the "Contract Price"). The Contract Price is subject to adjustment based on fluctuations in the cost of labor and certain materials for the Phase 2 tanks, including the steel used in the Phase 2 tanks, and change orders.

An EPC LNG Unit Rate Soil Contract has been entered into with Remedial Construction Services, L.P. (the "Soil Contractor"). The Soil Contractor is required to furnish all plant, labor, materials, tools, supplies, equipment, transportation, supervision, technical, professional and other services, and perform all operations necessary and required to satisfactorily conduct soil remediation and improvement on the Phase 2 site. Upon issuing a final notice to proceed, Sabine Pass LNG will be required to pay the Soil Contractor an initial payment of approximately \$2.9 million. The Soil Contract price is based on unit rates (the "Unit Prices"). Payments under the Soil Contract will be made based on quantities of work performed at Unit Prices.

### *Customer TUAs*

Total has paid Sabine Pass LNG nonrefundable advance capacity reservation fees of \$20.0 million in the aggregate in connection with the reservation under a 20-year TUA of approximately 1.0 Bcf/d of LNG regasification capacity at the Sabine Pass LNG receiving terminal. These capacity reservation fee payments will be amortized over a 10-year period as a reduction of Total's regasification capacity fee under the TUA.

Chevron USA has paid Sabine Pass LNG nonrefundable advance capacity reservation fees of \$20.0 million in the aggregate in connection with the reservation under a 20-year TUA of approximately 1.0 Bcf/d of LNG regasification capacity at the Sabine Pass LNG receiving terminal. These capacity reservation fee payments will be amortized over a 10-year period as a reduction of Chevron USA's regasification capacity tariff under the TUA.

Cheniere Marketing has entered into a TUA with Sabine Pass LNG for 1.5 Bcf/d of regasification capacity at our Sabine Pass LNG receiving terminal, which capacity will be reduced to 600 MMcf/d in the event that both the Total TUA and the Chevron TUA commence prior to completion of Phase 2 of our Sabine Pass LNG receiving terminal.

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### ***Corpus Christi LNG***

We currently estimate that the cost of constructing the Corpus Christi LNG receiving terminal will be approximately \$650 million to \$750 million, before financing costs. This estimate is based in part on our negotiations with a major international EPC contractor. Our cost estimate is subject to change due to such items as cost overruns, change orders, changes in commodity prices (particularly steel) and escalating labor costs.

#### ***Site Preparation***

In April 2006, Corpus Christi LNG entered into an engineering, procurement and construction services agreement for preliminary work with La Quinta LNG Partners, L.P. ("La Quinta"). La Quinta is a limited partnership whose general partners are Zachry and AMEC E&C Services, Inc. Under the terms of the agreement, La Quinta will provide Corpus Christi LNG with certain preliminary design, engineering, procurement, pipeline dismantlement, removal and construction, road construction and site preparation work on a reimbursable basis in connection with the Corpus Christi LNG receiving terminal. Payments anticipated to be made by Corpus Christi LNG to La Quinta for work performed under the agreement are not expected to exceed \$50 million.

#### ***Funding***

We currently expect to fund the amounts payable under the La Quinta EPC agreement from existing cash balances. The remainder of the project cost is expected to be funded through project financing similar to that used for our Sabine Pass LNG receiving terminal, existing cash, proceeds from debt or equity offerings, or a combination thereof. 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.

#### ***Customers***

Cheniere Marketing has entered into a TUA with Corpus Christi LNG for 1.0 Bcf/d of regasification capacity at the Corpus Christi LNG receiving terminal.

### ***Creole Trail LNG***

We currently estimate that the cost of constructing the Creole Trail LNG receiving terminal will be approximately \$850 million to \$950 million, before financing costs. Our cost estimate is preliminary and subject to change. We currently expect to fund the costs of the Creole Trail LNG terminal project using financing similar to that used for our Sabine Pass LNG receiving terminal, proceeds from future debt or equity offerings, existing cash or a combination thereof. 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.

### ***Other LNG Interests***

We have a 30% limited partner interest in Freeport LNG. Under the limited partnership agreement of Freeport LNG, development expenses of the Freeport LNG Development, L.P. ("Freeport LNG") Freeport LNG project and other Freeport LNG cash needs generally are to be funded out of Freeport LNG's own cash flows, borrowings or other sources, and, up to a pre-agreed total amount, with capital contributions by the limited partners. In July 2004, Freeport LNG entered into a credit agreement with ConocoPhillips to provide a substantial majority of the debt financing. We received capital calls, and

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made capital contributions, in the amount of approximately \$2.1 million in 2005. In December 2005, Freeport LNG announced that it had closed a \$383.0 million private placement of notes, which will be used to fund the remaining portion of the initial phase of the project, a portion of the cost of expanding the LNG receiving terminal and the development of 7.5 Bcf of underground salt cavern gas storage. As a result of such financing being obtained, we do not anticipate that any capital calls will be made upon the limited partners of Freeport LNG in the foreseeable future.

Although no capital calls are currently outstanding, and we do not anticipate any in the foreseeable future, additional capital calls may be made upon us and the other limited partners in Freeport LNG. In the event of each such future 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, before any Freeport LNG cash flows are otherwise distributed to us. We currently expect to evaluate Freeport LNG capital calls on a case-by-case basis and to fund additional capital contributions that we elect to make using cash on hand and funds raised through the issuance of Cheniere equity or debt securities or other Cheniere borrowings.

### **Natural Gas Pipelines**

We estimate that approximately \$800 million to \$1 billion of total capital expenditures will be required to construct our three natural gas pipelines. We currently expect to fund the costs of our three pipeline projects from our existing cash balances, project financing, proceeds from future debt or equity offerings, or a combination thereof. 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.

In February 2006, Sabine Pass Pipeline L.P. entered into an EPC pipeline contract with Willbros. Under the EPC pipeline contract, Willbros will provide Sabine Pass Pipeline L.P. with services for the management, engineering, material procurement, construction and construction management of the Sabine Pass pipeline. Sabine Pass Pipeline L.P. entered into the EPC pipeline contract sufficiently in advance of commencement of physical construction of the pipeline in order to perform detailed engineering and procure materials. This EPC pipeline contract, among other things, provides for a guaranteed maximum price of approximately \$67.7 million, subject to adjustment under certain circumstances, as provided in the contract. We estimate that the total cost to construct the Sabine Pass pipeline, including certain work not included in the EPC pipeline contract, such as interconnection with third-party pipelines, will be approximately \$90 million. Our total cost estimate is preliminary and subject to change due to such items as cost overruns, change orders, changes in commodity prices (particularly steel) and escalation of labor costs. Construction contracts have not been entered into for the Corpus Christi or Creole Trail pipeline.

**LNG and Natural Gas Marketing**

We are in the early stages of developing our LNG and natural gas marketing business. We will need to spend funds to develop our marketing business, including capital required to satisfy any creditworthiness requirements under contracts. These costs are expected to be incurred to develop the systems necessary to implement our business strategy and to hire additional employees to conduct our natural gas marketing activities. We expect to fund these expenses with available cash balances.

In April 2006, Cheniere Marketing entered into a 10-year Gas Purchase and Sale Agreement with PPM. Upon completion of certain of our facilities, the agreement provides Cheniere Marketing the ability to sell to PPM up to 600,000 MMBtus of natural gas per day at a Henry Hub-related market index price, and requires Cheniere Marketing to allocate to PPM a portion of the LNG that it procures under certain planned long-term LNG supply agreements.

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### **Other Capital Resources**

#### ***Convertible Senior Unsecured Notes***

In July 2005, we consummated a private offering of \$325.0 million aggregate principal amount of Convertible Senior Unsecured Notes due August 1, 2012 to qualified institutional buyers pursuant to Rule 144A under the Securities Act. The Notes bear interest at a rate of 2.25% per year. The Notes are convertible into our common stock pursuant to the terms of the indenture governing the Notes at an initial conversion rate of 28.2326 per \$1,000 principal amount of the Notes, which is equal to a conversion price of approximately \$35.42 per share. We may redeem some or all of the Notes on or before August 1, 2012, for cash equal to 100% of the principal plus any accrued and unpaid interest if in the previous 10 trading days the volume-weighted average price of our common stock exceeds \$53.13, subject to adjustment, for at least five consecutive trading days. In the event of such a redemption, we will make an additional payment equal to the present value of all remaining scheduled interest payments through August 1, 2012, discounted at the U.S. Treasury rate plus 50 basis points. The indenture governing the Notes contains customary reporting requirements.

Concurrently with the issuance of the Notes, we also entered into hedge transactions in the form of an issuer call spread (consisting of a purchase and a sale of call options on our common stock) with an affiliate of the initial purchaser of the Notes, having a term of two years and a net cost to us of \$75.7 million. These hedge transactions are expected to offset potential dilution from conversion of the Notes up to a market price of \$70.00 per share. The net cost of the hedge transactions will be recorded as a reduction to Additional Paid-in-Capital on our Consolidated Balance Sheet in accordance with the guidance of EITF Issue 00-19, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock*. Net proceeds from the offering were \$239.8 million, after deducting the cost of the hedge transactions, the underwriting discount and related fees. As of June 30, 2006, no holders had elected to convert their Notes.

#### ***Term Loan***

In August 2005, Cheniere LNG Holdings entered into a \$600.0 million Term Loan with Credit Suisse. The Term Loan has an interest rate equal to LIBOR plus a 2.75% margin and terminates on August 30, 2012. In connection with the closing, Cheniere LNG Holdings entered into swap agreements with Credit Suisse (the "Term Loan Swaps"), to hedge the LIBOR interest rate component of the Term Loan. The blended rate of the swap agreements on the Term Loan results in an annual fixed interest rate of 7.25% (including the 2.75% margin) for the first five years (see Note 4—"Derivative Instruments" to our Consolidated Financial Statements). On December 30, 2005, Cheniere LNG Holdings made the first required quarterly principal payment of \$1.5 million. Quarterly principal payments of \$1.5 million are required through June 30, 2012, and a final principal payment of \$559.5 million is required on August 30, 2012. The Term Loan contains customary affirmative and negative covenants. The obligations of Cheniere LNG Holdings are secured by its 100% equity interest in Sabine Pass LNG and its 30% limited partner equity interest in Freeport LNG.

Under the provisions of the Term Loan, Cheniere LNG Holdings was required to fund from the loan proceeds a total of \$216.2 million into two collateral accounts. These funds are restricted and to be disbursed only for the payment of interest and principal due under the Term Loan, reimbursement of certain expenses, and funding of additional capital contributions to Sabine Pass LNG as required under the Amended Sabine Pass Credit Facility. Because these accounts are controlled by Credit Suisse, the collateral agent, our cash and cash equivalent undisbursed balance of \$150.0 million held in these accounts as of June 30, 2006 is classified as restricted on our Consolidated Balance Sheet. Of this amount, \$13.5 million is classified as non-current due to the timing of certain required debt amortization payments.



### Short-Term Liquidity Needs

We anticipate funding our more immediate liquidity requirements, including expenditures related to the construction of our LNG receiving terminals and pipelines, the growth of our marketing business and our oil and gas exploration, development and exploitation activities, through a combination of any or all of the following:

- cash balances;
- drawings under the Amended Sabine Pass Credit Facility;
- issuances of Cheniere debt and equity securities, including issuances of common stock pursuant to exercises by the holders of existing options;
- LNG receiving terminal capacity reservation fees; and
- collection of receivables.

### Historical Cash Flows

Net cash used in operating activities increased to \$35.1 million during the six months ended June 30, 2006 compared to \$0.6 million in the same period of 2005. This \$34.5 million increase was primarily due to continued development of our LNG receiving terminals and related pipelines and increased costs to support such activities.

Net cash used in investing activities was \$143.4 million during the six months ended June 30, 2006 compared to net cash used in investing activities of \$121.3 million during the six months ended June 30, 2005. During the first six months of 2006, we invested \$160.5 million relating to our LNG receiving terminal and pipeline construction activities compared to \$92.1 million in the comparable period of 2005. We also invested \$4.1 million and \$2.6 million in fixed assets and oil and gas drilling activities, respectively, in the first six months of 2006. These investment activities were partially offset by a \$26.8 million use of our restricted cash investments during the first six months of 2006 related to funding of our terminal construction activities discussed above and to make payments of interest and principal relating to our Term Loan. During the first six months of 2005, we advanced \$24.3 million (net of \$8.1 million credited against invoices and transferred to construction-in-progress) to Bechtel related to the construction of our Sabine Pass LNG receiving terminal. We also invested \$92.1 million in construction-in-progress costs related to the LNG receiving terminal. The remaining cash used in investing activities for the first six months of 2005 primarily related to transfers to the Sabine Pass LNG restricted cash collateral accounts under the Sabine Pass Credit Facility, purchase of fixed assets, advances to Freeport LNG and oil and gas property additions.

Net cash provided by financing activities during the first six months of 2006 was \$143.5 million compared to \$14.8 million used in financing activities in the same period of 2005. During the first six months of 2006, we received proceeds from borrowings under the Sabine Pass Credit Facility totaling \$149.0 million and \$1.7 million received from the issuance of common stock related to stock option exercises. These proceeds were partially offset by \$3.0 million in Term Loan principal payments, \$3.0 million in debt issuance costs related to the Sabine Pass Credit Facility, which became due when the first borrowing was made under the Sabine Pass Credit Facility, and \$0.3 million in debt issuance costs relating to the refinancing of this facility during the second quarter of 2006. In addition, we paid federal withholding taxes of \$0.9 million in exchange for 24,300 shares of our common stock, which vested in February 2006 and related to stock previously awarded to an executive officer. During the first six months of 2005, we incurred \$16.8 million in debt issuance costs primarily related to the Sabine Pass Credit Facility, partially offset by \$2.0 million in proceeds from the exercise of stock options and warrants.

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Due to the factors described above, our cash and cash equivalents decreased to \$657.6 million as of June 30, 2006 compared to \$692.6 million at December 31, 2005, and our working capital decreased to \$756.1 million as of June 30, 2006 compared to \$810.1 million at December 31, 2005.

### **Issuances of Common Stock**

During the first six months of 2006, a total of 264,068 shares of our common stock were issued pursuant to the exercise of stock options, resulting in net cash proceeds of \$1.7 million. In addition, 20,633 shares of common stock were issued in satisfaction of cashless exercise of options to purchase 27,800 shares of common stock.

In January 2006, 78,671 shares were issued to executive officers in the form of non-vested (restricted) stock awards related to our performance in 2005. During the first six months of 2006, we issued 100,780 shares of non-vested restricted stock to new employees.

We paid federal payroll withholding taxes of \$0.9 million in exchange for 24,300 shares of our common stock, which vested in February 2006, related to stock previously awarded to an executive officer. These shares were initially recorded as treasury shares, at cost, but were retired in June 2006.

### **Off-Balance Sheet Arrangements**

As of June 30, 2006, we had no off-balance sheet debt or other such unrecorded obligations, and we have not guaranteed the debt of any other party.

## RESULTS OF OPERATIONS

**Three Months Ended June 30, 2006  
vs. Three Months Ended June 30, 2005**

### Consolidated Results

	Three Months Ended June 30, 2006					Consolidated
	LNG Receiving Terminal	Natural Gas Pipeline	LNG & Natural Gas Marketing	Oil & Gas Exploration & Development	Corporate & Other	
Revenue	\$ —	\$ —	\$ —	\$ 413	\$ —	\$ 413
Operating costs and expenses						
LNG receiving terminal and pipeline development expenses	5,746	(10,252)	—	—	—	(4,506)
Exploration costs	—	—	—	590	—	590
Oil and gas production costs	—	—	—	55	—	55
Depreciation, depletion and amortization	34	—	7	—	538	579
General and administrative expenses	1,917	10	1,597	961	7,959	12,444
Total operating costs and expenses	7,697	(10,242)	1,604	1,606	8,497	9,162
Income (loss) from operations	(7,697)	10,242	(1,604)	(1,193)	(8,497)	(8,749)
Derivative gain (loss)	162	—	—	—	—	162
Interest expense	(9,588)	130	—	—	(1,638)	(11,096)
Interest income	1,971	—	—	—	8,364	10,335
Other income	—	108	—	—	—	108
Income tax benefit	—	—	—	—	5,621	5,621
Net income (loss)	<u>\$ (15,152)</u>	<u>\$ 10,480</u>	<u>\$ (1,604)</u>	<u>\$ (1,193)</u>	<u>\$ 3,850</u>	<u>\$ (3,619)</u>

	Three Months Ended June 30, 2005					Consolidated
	LNG Receiving Terminal	Natural Gas Pipeline	LNG & Natural Gas Marketing	Oil & Gas Exploration & Development	Corporate & Other	
Revenue	\$ —	\$ —	\$ —	\$ 689	\$ —	\$ 689
Operating costs and expenses						
LNG receiving terminal and pipeline development expenses	1,536	3,814	—	—	—	5,350
Exploration costs	—	—	—	560	—	560
Oil and gas production costs	—	—	—	34	—	34
Depreciation, depletion and amortization	8	—	—	6	235	249
General and administrative expenses	1,416	(78)	—	411	3,851	5,600
Total operating costs and expenses	2,960	3,736	—	1,011	4,086	11,793
Loss from operations	(2,960)	(3,736)	—	(322)	(4,086)	(11,104)
Equity in net loss of limited partnership	(127)	—	—	—	—	(127)
Derivative gain (loss)	(642)	—	—	—	—	(642)
Interest income	40	—	—	—	1,715	1,755
Other income	—	—	—	426	—	426
Net income (loss)	<u>\$ (3,689)</u>	<u>\$ (3,736)</u>	<u>\$ —</u>	<u>\$ 104</u>	<u>\$ (2,371)</u>	<u>\$ (9,692)</u>

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Financial results for the second quarter of 2006 reflect a net loss of \$3.6 million, or \$0.07 per share (basic and diluted), compared to a net loss of \$9.7 million, or \$0.18 per share (basic and diluted), for the second quarter of 2005.

The major factors contributing to our net loss of \$3.6 million during the second quarter of 2006 were charges for general and administrative (“G&A”) expenses of \$12.4 million and interest expense of \$11.1 million, partially offset by interest income of \$10.3 million, an income tax benefit of \$5.6 million and a \$4.5 million credit in LNG receiving terminal and pipeline development expenses. The credit in LNG receiving terminal and pipeline development expenses arises from our application of SFAS No. 71 in the second quarter of 2006, whereby \$12.3 million of natural gas pipeline development costs previously charged to expense were capitalized as a regulatory asset (see Note 2 —“Property, Plant and Equipment” in the Notes to Consolidated Financial Statements). Our net loss for the second quarter of 2006 excluding the \$12.3 million expense recapture was \$15.9 million, or \$0.30 per share (basic and diluted). The major factors contributing to our net loss of \$9.7 million during the second quarter of 2005 were LNG receiving terminal and pipeline development expenses of \$5.4 million, G&A expenses of \$5.6 million and interest income of \$1.8 million.

As of January 1, 2006, we adopted SFAS No. 123R, *Share-Based Payment*, which requires that all share-based payments to employees be recognized in the financial statements based on their fair value at the date of grant. As a result, we recorded \$4.2 million of non-cash compensation expense related to stock options in the second quarter of 2006.

### ***LNG Receiving Terminal Segment***

Financial results for our LNG receiving terminal segment for the second quarter of 2006 reflect a net loss of \$15.2 million, compared to a net loss of \$3.7 million for the second quarter of 2005.

LNG development expenses were 280% higher in the second quarter of 2006 (\$5.7 million) than in the second quarter of 2005 (\$1.5 million). Our development expenses primarily included professional fees associated with front-end engineering and design work, obtaining orders from the FERC authorizing construction of our facilities and other required permitting for our planned LNG receiving terminals. Other expenses directly related to the development of our LNG receiving terminals include the expenses of our employees directly involved in the LNG development activities. The \$4.2 million increase in development expenses from the second quarter of 2005 to the second quarter of 2006 was primarily a result of an increase in employee-related costs of \$1.3 million (including an increase of \$0.8 million of non-cash compensation primarily resulting from stock option expense), engineering, legal and other technical costs of \$1.9 million, and Sabine Pass LNG site rental expenses of \$0.4 million. The increase in employee-related costs was due to our increase in the average number of employees engaged in LNG terminal development activities from 28 in the second quarter of 2005 to 54 in the second quarter of 2006. The increase in engineering, legal and other technical costs was due to front-end engineering and design work related to our Creole Trail LNG receiving terminal and Sabine Pass expansion.

G&A expenses were 36% higher in the second quarter of 2006 (\$1.9 million) than in the second quarter of 2005 (\$1.4 million). Our G&A expenses primarily related to an allocation of corporate overhead as prescribed by a contractual management service agreement between two wholly-owned subsidiaries, evaluation of software required for Sabine Pass LNG receiving terminal operations, and Hurricane Rita relief efforts. The \$0.5 million increase in the second quarter of 2006 as compared to the same period in the previous year was primarily due to additional software evaluation costs and Hurricane Rita relief efforts.

The increase in interest income and interest expense of \$1.9 million and \$9.6 million, respectively, from the second quarter of 2005 to the same period in 2006 was due to the borrowings from the Sabine Pass Credit Facility beginning in the first quarter of 2006 and the Term Loan in the third quarter of 2005. The increase in interest income was due to investment income on the proceeds from the Term Loan.

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### ***Natural Gas Pipeline Segment***

Financial results for our natural gas pipeline segment for the second quarter of 2006 reflect a net income of \$10.5 million, compared to a net loss of \$3.7 million for the second quarter of 2005.

Natural gas pipeline development expenses decreased \$14.1 million in the second quarter of 2006 to a negative \$10.3 million compared to a positive \$3.8 million in the second quarter of 2005. Historically, our natural gas pipeline development expenses primarily included professional fees associated with front-end engineering and design work, obtaining orders from the FERC authorizing construction of our pipelines and other required permitting for our planned natural gas pipelines. During the second quarter of 2006, however, we recognized regulatory assets, as prescribed by SFAS No. 71 (see Note 2—"Property, Plant and Equipment" in the Notes to Consolidated Financial Statements), that had previously been expensed as pipeline development expenses. The impact of recording these regulatory assets reduced pipeline development expense in the second quarter of 2006 by \$12.3 million. Natural gas pipeline development expenses for the second quarter of 2006, excluding the impact of recording regulatory assets, would have been \$2.0 million. Not including the impact of the recognition of regulatory assets in the second quarter of 2006, there was a decrease in natural gas pipeline development expenses of \$1.8 million between periods. The decrease was primarily related to front-end engineering and design work, much of which was completed in 2005 for the Creole Trail pipeline.

### ***LNG and Natural Gas Marketing Segment***

Financial results for our LNG and natural gas marketing segment for the second quarter of 2006 reflect a net loss of \$1.6 million, compared to zero for the second quarter of 2005, as we had not begun development of this segment at that time. G&A expenses incurred in the second quarter of 2006 were primarily related to employee costs and legal and consulting fees.

### ***Oil and Gas Exploration and Development Segment***

Financial results for our oil and gas exploration and development segment for the second quarter of 2006 reflect a net loss of \$1.2 million, compared to net income of \$0.1 million for the second quarter of 2005. The decrease in net income was a result of lower production volumes and an increase in G&A expenses as a result of non-cash share-based compensation primarily resulting from stock option expense.

### ***Corporate and Other***

Financial results for corporate and other activities for the second quarter of 2006 reflect a net income of \$3.9 million, compared to a net loss of \$2.4 million for the second quarter of 2005.

G&A expense increased \$4.1 million, or 105%, to \$8.0 million in the second quarter of 2006 compared to \$3.9 million in the second quarter of 2005. The increase in G&A expense primarily resulted from our expansion of our business (including increases in our corporate staff from an average of 44 employees in the second quarter of 2005 to an average of 90 employees in the second quarter of 2006). Included in G&A expense is an increase in non-cash compensation of \$2.9 million primarily resulting from stock option expense. Corporate employee-related costs for the second quarter of 2006 and 2005 included non-cash compensation of \$3.3 million and \$0.4 million, respectively.

Interest income was \$6.7 million greater in the second quarter of 2006 (\$8.4 million) than in the second quarter of 2005 (\$1.7 million). The increase in interest income was due to the increase in cash balances and average interest rates from June 30, 2005 to June 30, 2006.

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A tax benefit of \$5.6 million was recognized in the second quarter of 2006 relating to the portion of the change in our tax asset valuation account that is allocable to the deferred income tax on items reported in accumulated OCI primarily related to derivative instruments in accordance with SFAS No. 109, *Accounting for Income Taxes*, and EITF *Abstract*, Topic D-32.

Interest expense was \$1.6 million in the second quarter of 2006 compared to zero in the second quarter of 2005. The increase in interest expense related to borrowings subsequent to June 30, 2005.

### Six Months Ended June 30, 2006 vs. Six Months Ended June 30, 2005

	Six Months Ended June 30, 2006					
	LNG Receiving Terminal	Natural Gas Pipeline	LNG & Natural Gas Marketing	Oil & Gas Exploration & Development	Corporate & Other	Consolidated
Revenue	\$ —	\$ —	\$ —	\$ 835	\$ —	\$ 835
Operating costs and expenses						
LNG receiving terminal and pipeline development expenses	12,391	(8,584)	—	—	—	3,807
Exploration costs	—	—	—	1,428	—	1,428
Oil and gas production costs	—	—	—	105	—	105
Depreciation, depletion and amortization	63	—	7	59	1,056	1,185
General and administrative expenses	4,084	10	2,832	1,797	16,902	25,625
Total operating costs and expenses	16,538	(8,574)	2,839	3,389	17,958	32,150
Income (loss) from operations	(16,538)	8,574	(2,839)	(2,554)	(17,958)	(31,315)
Derivative gain (loss)	923	—	—	—	—	923
Interest expense	(19,109)	130	—	—	(3,255)	(22,234)
Interest income	3,852	—	—	—	16,027	19,879
Other income	—	108	—	176	—	284
Income tax benefit	—	—	—	—	13,033	13,033
Net income (loss)	<u><u>\$ (30,872)</u></u>	<u><u>\$ 8,812</u></u>	<u><u>\$ (2,839)</u></u>	<u><u>\$ (2,378)</u></u>	<u><u>\$ 7,847</u></u>	<u><u>\$ (19,430)</u></u>

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	Six Months Ended June 30, 2005					
	LNG Receiving Terminal	Natural Gas Pipeline	LNG & Natural Gas Marketing	Oil & Gas Exploration & Development	Corporate & Other	Consolidated
Revenue	\$ —	\$ —	\$ —	\$ 1,425	\$ —	\$ 1,425
Operating costs and expenses						
LNG receiving terminal and pipeline development expenses	4,744	6,031	—	—	—	10,775
Exploration costs	—	—	—	1,102	—	1,102
Oil and gas production costs	—	—	—	89	—	89
Depreciation, depletion and amortization	10	—	—	31	412	453
General and administrative expenses	2,004	—	—	741	7,845	10,590
Total operating costs and expenses	6,758	6,031	—	1,963	8,257	23,009
Loss from operations	(6,758)	(6,031)	—	(538)	(8,257)	(21,584)
Equity in net loss of limited partnership	(971)	—	—	—	—	(971)
Derivative gain (loss)	(667)	—	—	—	—	(667)
Interest income	103	—	—	426	3,470	3,573
Other	—	—	—	—	97	523
Net loss	<u>\$ (8,293)</u>	<u>\$ (6,031)</u>	<u>\$ —</u>	<u>\$ (112)</u>	<u>\$ (4,690)</u>	<u>\$ (19,126)</u>

Financial results for the six months ended June 30, 2006 reflect a net loss of \$19.4 million, or \$0.36 per share (basic and diluted), compared to a net loss of \$19.1 million, or \$0.36 per share (basic and diluted), for the six months ended June 30, 2005.

The major factors contributing to our net loss of \$19.4 million during the first six months of 2006 were G&A expenses of \$25.6 million, interest expense of \$22.2 million and LNG receiving terminal and pipeline development expenses of \$3.8 million, partially offset by interest income of \$19.9 million and an income tax benefit of \$13.0 million. Included in the \$3.8 million of LNG receiving terminal and pipeline development expenses is a credit of \$12.3 million. This credit represents the amount of pipeline development expenses previously charged to expense that constitute a regulatory asset as a result of our application of SFAS No. 71 in the second quarter of 2006 (see Note 2 —“Property, Plant and Equipment” in the Notes to Consolidated Financial Statements). Our net loss for the first six months of 2006 excluding the \$12.3 million credit was \$31.7 million, or \$0.59 per share (basic and diluted). The major factors contributing to our net loss of \$19.1 million during the first six months of 2005 were LNG receiving terminal and pipeline development expenses of \$10.8 million and G&A expenses of \$10.6 million, offset by interest income of \$3.6 million.

As a result of our adoption of SFAS No. 123R, *Share-Based Payment*, on January 1, 2006, we recorded \$8.7 million of non-cash compensation expense related to stock options in the first six months of 2006.

### LNG Receiving Terminal Segment

Financial results for our LNG receiving terminal segment for the first six months of 2006 reflect a net loss of \$30.9 million, compared to a net loss of \$8.3 million for the first six months of 2005.

LNG development expenses were 164% higher in the first six months of 2006 (\$12.4 million) than in the first six months of 2005 (\$4.7 million). Our development expenses primarily include costs of

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front-end engineering and design work, obtaining orders from the FERC authorizing construction of our facilities and other required permitting for our planned LNG receiving terminals. Other expenses directly related to the development of our LNG receiving terminals, include expenses of our LNG employees directly involved in the development activities. The \$7.7 million increase in development expenses for the first six months of 2006 compared to the first six months of 2005 primarily resulted from an increase in employee-related costs of \$3.3 million (including an increase of \$1.9 million of non-cash compensation primarily resulting from stock option expense) and engineering, legal and other technical costs of \$3.9 million. The increase in employee-related costs was due to our increase in the average number of employees from 24 in the first six months of 2005 to 50 in the first six months of 2006. This increase in employees resulted from the continued increase and development of our LNG receiving terminal business. The increase in engineering, legal and other technical costs was due to the increased front-end engineering and design work related to our Corpus Christi and Creole Trail LNG receiving terminals and Sabine Pass expansion.

G&A expenses were 105% higher in the first six months of 2006 (\$4.1 million) than in the first six months of 2005 (\$2.0 million). Our G&A expenses primarily related to an allocation of corporate overhead as prescribed by a contractual management service agreement between two wholly-owned subsidiaries, software evaluation costs and costs associated with Hurricane Rita relief. The \$2.1 million increase between periods was primarily due to an increase in software evaluation costs relating to Sabine Pass LNG receiving terminal operations, Hurricane Rita relief efforts and an additional two months of contractual overhead related to the Sabine Pass LNG receiving terminal.

Interest income and interest expense increased \$3.7 million and \$19.1 million, respectively, from the first six months of 2005 compared to the first six months of 2006. The increase in interest expense was due to the borrowings from the Sabine Pass Credit Facility beginning in the first quarter of 2006 and the Term Loan beginning in the third quarter of 2005. The increase in interest income was due to investment income on the proceeds from the Term Loan.

Derivative gain was \$1.6 million greater in the first six months of 2006 (gain of \$0.9 million) than in the first six months of 2005 (loss of \$0.7 million). The increase in derivative gain attributable to the ineffective portion of our interest rate swap resulted from increased interest rates, which caused the value of our interest rate swaps to increase.

### ***Natural Gas Pipeline Segment***

Financial results for our natural gas pipeline segment for the first six months of 2006 reflect a net income of \$8.8 million, compared to a net loss of \$6.0 million for the first six months of 2005.

Natural gas pipeline development expenses decreased \$14.6 million in the first six months of 2006 to a negative \$8.6 million compared to a positive \$6.0 million in the first six months of 2005. Historically, our natural gas pipeline development expenses primarily included professional fees associated with front-end engineering and design work, obtaining orders from the FERC authorizing construction of our facilities and other required permitting for our planned natural gas pipelines. During the first six months of 2006, however, we recognized regulatory assets, as prescribed by SFAS No. 71 (see Note 1—"Basis of Presentation" in the Notes to Consolidated Financial Statements), that had previously been expensed as pipeline development expenses. The impact of recording these regulatory assets reduced pipeline development expenses in the first six months of 2006 by \$12.3 million. Natural gas pipeline development expenses for the first six months of 2006, excluding the impact of recording regulatory assets, would have been \$3.7 million. Not including the impact of the recognition of regulatory assets in the first six months of 2006, there was a decrease in natural gas pipeline development expenses of \$2.3 million between periods. The decrease was primarily related to front-end engineering and design work, much of which was completed in 2005, for the Creole Trail pipeline.



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### ***LNG and Natural Gas Marketing Segment***

Financial results for our LNG and natural gas marketing segment for the first six months of 2006 reflect a net loss of \$2.8 million, compared to zero for the first six months of 2005, as we had not begun development of this segment at that time. G&A expenses incurred in the first six months of 2006 were primarily related to employee costs and legal and consulting fees.

### ***Oil and Gas Exploration and Development Segment***

Financial results for our oil and gas exploration and development segment for the first six months of 2006 reflect a net loss of \$2.4 million, compared to a net loss of \$0.1 million for the first six months of 2005. The decrease in net income was a result of lower production volumes and an increase in G&A expenses as a result of non-cash stock based compensation primarily resulting from stock option expense.

### ***Corporate and Other***

Financial results for our corporate and other activities for the first six months of 2006 reflect net income of \$7.8 million, compared to a net loss of \$4.7 million for the first six months of 2005.

G&A expenses increased \$9.1 million, or 117%, to \$16.9 million in the first six months of 2006 compared to \$7.8 million in the first six months of 2005. The increase in G&A expenses primarily resulted from the expansion of our business (including increases in corporate staffing from an average of 44 employees in the first six months of 2005 to an average of 80 employees in the first six months of 2006). Included in G&A expenses is an increase in non-cash compensation of \$5.5 million primarily resulting from stock option expense. Corporate employee-related costs for the first six months of 2006 and 2005 included non-cash compensation of \$6.4 million and \$0.9 million, respectively.

Interest income was \$12.5 million greater in the first six months of 2006 (\$16.0 million) than in the first six months of 2005 (\$3.5 million). The increase in interest income was due to the increase in cash balances and average interest rates between periods.

A tax benefit of \$13.0 million was recognized in the first six months of 2006 relating to the portion of the change in our tax asset valuation account that is allocable to the deferred income tax on items reported in accumulated OCI on derivative instruments in accordance with SFAS No. 109, *Accounting for Income Taxes*, and EITF Abstract, Topic D-32.

Interest expenses was \$3.3 million greater in the first six months of 2006 (\$3.3 million) than in the first six months of 2005 (zero). The increase in interest expense was due to the increase in our debt balance from June 30, 2005 to June 30, 2006.

## **OTHER MATTERS**

### **Critical Accounting Estimates and Policies**

The selection and application of accounting policies is an important process that has developed as our business activities have evolved and as the accounting rules have developed. Accounting rules generally do not involve a selection among alternatives but involve an implementation and interpretation of existing rules, and the use of judgment, to the specific set of circumstances existing in our business. We make every effort to comply properly with all applicable rules on or before their adoption, and we believe that the proper implementation and consistent application of the accounting rules are critical. However, not all situations are specifically addressed in the accounting literature. In these cases, we must use our best judgment to adopt a policy for accounting for these situations. We accomplish this by analogizing to similar situations and the accounting guidance governing them.

### ***Accounting for LNG Activities***

Generally, we begin capitalizing the costs of our LNG receiving terminals and related pipelines once the individual project meets the following criteria: (i) regulatory approval has been received, (ii) financing for the project is available and (iii) management has committed to commence construction. Prior to meeting these criteria, most of the costs associated with a project are expensed as incurred. These costs primarily include professional fees associated with front-end engineering and design work, costs of securing necessary regulatory approvals, and other preliminary investigation and development activities related to our LNG receiving terminals and related pipelines.

Generally, costs that are capitalized prior to a project meeting the criteria otherwise necessary for capitalization include: land costs, costs of lease options and the cost of certain permits, which are capitalized as intangible LNG assets. The costs of lease options are amortized over the life of the lease once it is obtained. If no lease is obtained, the costs are expensed. Site rental costs and related amortization of capitalized options have been capitalized during the construction period through the end of 2005. Beginning in 2006, such costs have been expensed as required by FSP 13-1.

During the construction periods of our LNG receiving terminals, we capitalize interest and other related debt costs in accordance with SFAS No. 34 *Capitalization of Interest Cost*, as amended by SFAS No. 58, *Capitalization of Interest Cost in Financial Statements That Include Investments Accounted for by the Equity Method (an Amendment of FASB Statement No. 34)*. Upon commencement of operations, capitalized interest, as a component of the total cost, will be amortized over the estimated useful life of the asset.

### ***Regulated Operations***

Our developing natural gas pipeline business is subject to the jurisdiction of the FERC in accordance with the Natural Gas Act of 1938 and the Natural Gas Policy Act of 1978, and we have determined that certain of our pipeline systems to be constructed have met the criteria set forth in SFAS No. 71. Accordingly, we have applied the provisions of SFAS No. 71 to the affected pipeline subsidiaries beginning in the second quarter of 2006.

Our application of SFAS No. 71 is based on the current regulatory environment, our current projected tariff rates, and our ability to collect those rates. Future regulatory developments and rate cases could impact this accounting. Although discounting of our maximum tariff rates may occur, we believe the standards required by SFAS No. 71 for its application are met and the use of regulatory accounting under SFAS No. 71 best reflects the results of future operations in the economic environment in which we will operate. Regulatory accounting requires us to record assets and liabilities that result from the rate-making process that would not be recorded under GAAP for non-regulated entities. We will continue to evaluate the application of regulatory accounting principles based on on-going changes in the regulatory and economic environment. Items that may influence our assessment are:

- inability to recover cost increases due to rate caps and rate case moratoriums;
- inability to recover capitalized costs, including an adequate return on those costs through the rate-making process and FERC proceedings;
- excess capacity;
- increased competition and discounting in the markets we serve; and
- impacts of ongoing regulatory initiatives in the natural gas industry.

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Natural gas pipeline costs include amounts capitalized as an Allowance for Funds Used During Construction (“AFUDC”). The rates used in the calculation of AFUDC are determined in accordance with guidelines established by the FERC. AFUDC represents the cost of debt and equity funds used to finance our natural gas pipeline additions during construction. AFUDC is capitalized as a part of the cost of our natural gas pipelines. Under regulatory rate practices, we generally are permitted to recover AFUDC, and a fair return thereon, through our rate base after our natural gas pipelines are placed in service.

### ***Revenue Recognition***

LNG receiving terminal capacity reservation fees are recognized as revenue over the term of the respective TUAs. Advance capacity reservation fees are deferred initially.

### ***Change in Method of Accounting for Investments in Oil and Gas Properties***

Effective January 1, 2006, we converted from the full cost method to the successful efforts method of accounting for our investments in oil and gas properties. While our primary focus is the development of our LNG-related businesses, we have continued to be involved, to a limited extent, in oil and gas exploration and development activities in the U.S. Gulf of Mexico. We believe that, in light of our current level of exploration and development activities, the successful efforts method of accounting provides a better matching of expenses to the period in which oil and gas production is realized. As a result, we believe that the change in accounting method at this time is appropriate. The change in accounting method constitutes a “Change in Accounting Principle,” requiring that all prior period financial statements be adjusted to reflect the results and balances that would have been reported had we been following the successful efforts method of accounting from our inception. The cumulative effect of the change in accounting method as of December 31, 2004 and 2005 was to reduce the balance of our net investment in oil and gas properties and retained earnings at those dates by \$18.2 million and \$18.0 million, respectively. The change in accounting method resulted in a decrease in the net loss of \$145,000 and an increase in the net loss of \$73,000 for the three and six months ended June 30, 2005, respectively, and had no impact on earnings per share (basic and diluted) for these respective periods (see Note 14—“Adjustment to Financial Statements – Successful Efforts” to our Consolidated Financial Statements). The change in method of accounting has no impact on cash or working capital.

### ***Cash Flow Hedges***

As defined in SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, cash flow hedge transactions hedge the exposure to variability in expected future cash flows (i.e., in our case, the variability of floating interest rate exposure). In the case of cash flow hedges, the hedged item (the underlying risk) is generally unrecognized (i.e., not recorded on the balance sheet prior to settlement), and any changes in the fair value, therefore, will not be recorded within earnings. Conceptually, if a cash flow hedge is effective, this means that a variable, such as a movement in interest rates, has been effectively fixed so that any fluctuations will have no net result on either cash flows or earnings. Therefore, if the changes in fair value of the hedged item are not recorded in earnings, then the changes in fair value of the hedging instrument (the derivative) must also be excluded from the income statement or else a one-sided net impact on earnings will be reported, despite the fact that the establishment of the effective hedge results in no net economic impact. To prevent such a scenario from occurring, SFAS No. 133 requires that the fair value of a derivative instrument designated as a cash flow hedge be recorded as an asset or liability on the balance sheet, but with the offset reported as part of OCI, to the extent that the hedge is effective. Any ineffective portion will be reflected in earnings.

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### ***Goodwill***

Goodwill is accounted for in accordance with SFAS No. 142, *Goodwill and Other Intangible Assets*. We perform an annual goodwill impairment review in the fourth quarter of each year, although we may perform a goodwill impairment review more frequently whenever events or circumstances indicate that the carrying value may not be recoverable.

### ***Share-Based Compensation Expense***

Effective January 1, 2006, we adopted the fair value recognition provisions of SFAS No. 123R using the modified prospective transition method, and therefore have not restated prior periods' results. Under this method, we recognize compensation expense for all share-based payments granted after January 1, 2006 and prior to, but not yet vested as of, January 1, 2006, in accordance with SFAS 123R using the Black-Scholes-Merton option valuation model. Under the fair value recognition provisions of SFAS 123R, we recognize stock-based compensation net of an estimated forfeiture rate and only recognize compensation cost for those shares expected to vest on a straight-line basis over the requisite service period of the award. Prior to the adoption of SFAS 123R, we accounted for share-based payments under APB No. 25 and accordingly, did not recognize compensation expense for options granted that had an exercise price greater than or equal to the market value of the underlying common stock on the date of grant.

Determining the appropriate fair value model and calculating the fair value of share-based payment awards require the input of highly subjective assumptions, including the expected life of the share-based payment awards and stock price volatility. We believe that implied volatility, calculated based on traded options of our common stock, combined with historical volatility is an appropriate indicator of expected volatility and future stock price trends. Therefore, expected volatility for the quarter ended June 30, 2006 was based on a combination of implied and historical volatilities. The assumptions used in calculating the fair value of share-based payment awards represent our best estimates, but these estimates involve inherent uncertainties and the application of management judgment. As a result, if factors change and we use different assumptions, our stock-based compensation expense could be materially different in the future. In addition, we are required to estimate the expected forfeiture rate and only recognize expense for those shares expected to vest. If our actual forfeiture rate is materially different from our estimate, the stock-based compensation expense could be significantly different from what we have recorded in the current period. See Note 15—"Share-Based Compensation" in the Notes to Consolidated Financial Statements for a further discussion on share-based compensation.

## **NEW ACCOUNTING PRONOUNCEMENTS**

In February 2006, the FASB issued SFAS No. 155, *Accounting for Certain Hybrid Financial Instruments*. SFAS No. 155 provides entities with relief from having to separately determine the fair value of an embedded derivative that would otherwise be required to be bifurcated from its host contract in accordance with SFAS No. 133. SFAS No. 155 allows an entity to make an irrevocable election to measure such a hybrid financial instrument at fair value in its entirety, with changes in fair value recognized in earnings. SFAS No. 155 is effective for all financial instruments acquired, issued or subject to a remeasurement event occurring after the beginning of an entity's first fiscal year that begins after September 15, 2006. We believe that the adoption of SFAS No. 155 will not have a material impact on our financial position, results of operations or cash flows.

In March 2006, the FASB issued SFAS No. 156, *Accounting for Servicing of Financial Assets – An Amendment to FASB Statement No. 140*. Once effective, SFAS No. 156 will require entities to recognize a servicing asset or liability each time they undertake an obligation to service a financial asset by entering into a servicing contract in certain situations. This statement also requires all separately recognized servicing assets and servicing liabilities to be initially measured at fair value and permits a choice of

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either the amortization or fair value measurement method for subsequent measurement. The effective date of this statement is for annual periods beginning after September 15, 2006, with earlier adoption permitted as of the beginning of an entity's fiscal year provided the entity has not issued any financial statements for that year. We do not plan to adopt SFAS No. 156 early, and we are currently assessing the impact on our consolidated financial statements.

In July 2006, the FASB issued FIN 48, *Accounting for Uncertainty in Income Taxes - An Interpretation of FASB Statement No. 109*. FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with SFAS No. 109, *Accounting for Income Taxes*. FIN 48 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This new FASB standard also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The provisions of FIN 48 are effective for fiscal years beginning after December 15, 2006. Earlier application is permitted as long as the enterprise has not yet issued financial statements, including interim financial statements, in the period of adoption. The provisions of FIN 48 are to be applied to all tax positions upon initial adoption of this standard. Only tax positions that meet the more-likely-than-not recognition threshold at the effective date may be recognized or continue to be recognized upon adoption of FIN 48. The cumulative effect of applying the provisions of FIN 48 should be reported as an adjustment to the opening balance of retained earnings (or other appropriate components of equity or net assets in the statement of financial position) for that fiscal year. We believe that the adoption of FIN 48 will not have a material impact on our financial position, results of operations or cash flows.

### **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 related to our oil and gas producing activities.

We have cash investments that we manage based on internal investment guidelines that emphasize liquidity and preservation of capital. Such cash investments are stated at historical cost, which approximates fair market value on our Consolidated Balance Sheet.

### **Interest Rates**

We are exposed to changes in interest rates, primarily as a result of our debt obligations. The fair value of our fixed rate debt is affected by changes in market rates. We utilize interest rate swap agreements to mitigate exposure to rising interest rates. We do not use interest rate swap agreements for speculative or trading purposes.

At June 30, 2006, we had approximately \$1.1 billion of debt outstanding. Of this amount, our \$325 million of Notes bore a fixed interest rate of 2.25%. The Term Loan and Sabine Pass Credit Facility, totaling \$595 million and \$149 million, respectively, bear interest at floating rates; however, we entered into interest rate swaps with respect to these loan amounts (see Note 4—"Derivative Instruments" in the Notes to Consolidated Financial Statements).

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The following table summarizes the fair market values of our existing interest rate swap agreements as of June 30, 2006 (in thousands):

### Variable to Fixed Swaps

Maturity Date	Weighted Average Notional Principal Amount	Fixed Interest Rate (Pay)	Weighted Average Interest Rate	Fair Market Value (1)
March through December 2006	\$ 973,517	3.75% - 4.49%	US \$ LIBOR BBA	\$ 5,002
January through December 2007	1,135,432	3.75% - 4.49%	US \$ LIBOR BBA	15,800
January through December 2008	1,276,168	3.98% - 5.98%	US \$ LIBOR BBA	12,200
January through December 2009	1,275,948	4.49% - 5.98%	US \$ LIBOR BBA	1,071
January through December 2010	1,017,093	4.98% - 5.98%	US \$ LIBOR BBA	2,485
January through December 2011	662,442	4.98%	US \$ LIBOR BBA	3,344
January through December 2012	650,100	4.98%	US \$ LIBOR BBA	1,607
				<u>\$ 41,509</u>

(1) The fair market value is based upon a marked-to-market calculation utilizing an extrapolation of third-party mid-market LIBOR rate quotes at June 30, 2006.

### 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 Exchange Act of 1934 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

We may in the future be involved as a party to various legal proceedings, which are incidental to the ordinary course of business. We regularly analyze current information and, as necessary, provide accruals for probable liabilities on the eventual disposition of these matters. In the opinion of management and legal counsel, as of June 30, 2006, there were no threatened or pending legal matters that would have a material impact on our Consolidated Results of Operations, financial position or cash flows.

As previously disclosed, we received a letter dated December 17, 2004 advising us of a nonpublic, informal inquiry being conducted by the SEC. On August 9, 2005, the SEC informed us that it had issued a formal order and commenced a nonpublic factual investigation of actions and communications by Cheniere, its current or former directors, officers and employees and other persons in connection with our agreements and negotiations with Chevron USA, the Company's December 2004 public offering of common stock, and trading in our securities. The scope, focus and subject matter of the SEC investigation may change from time to time, and we may be unaware of matters under consideration by the SEC. We have cooperated fully with the SEC informal inquiry and intend to continue cooperating fully with the SEC in its investigation.

**Item 4. Submission of Matters to a Vote of Security Holders**

We held an annual meeting of its stockholders on May 23, 2006. The following individuals were elected to the Board of Directors: Nuno Brandolini and Paul J. Hoenmans. In addition to the election of directors, the following matters were submitted to a vote and approved by stockholders: an amendment to our 2003 Plan to increase the number of shares of common stock available for issuance under the 2003 Plan from 8,000,000 shares to 11,000,000 shares; and the ratification of the appointment of UHY Mann Frankfort Stein & Lipp CPAs, LLP as independent accountants for the fiscal year ending December 31, 2006. There were 54,768,837 shares of common stock outstanding and eligible to vote as of the record date of March 27, 2006. The following table summarizes the results of the voting:

ITEM 1: ELECTION OF DIRECTORS

Director	Number of Votes For	Number of Votes Withheld
Nuno Brandolini	45,148,225	1,535,132
Paul J. Hoenmans	45,146,735	1,536,662

ITEM 2: APPROVAL OF THE AMENDMENT TO THE AMENDED AND RESTATED 2003 STOCK INCENTIVE PLAN

Number of Votes For	Percent of Votes	Number of Votes Against	Percent of Votes	Number of Votes Abstained	Percent of Votes
22,905,037	78.35%	6,167,658	21.10%	161,244	0.55%

ITEM 3: RATIFICATION OF THE AUDIT COMMITTEE'S APPOINTMENT OF UHY MANN FRANKFORT STEIN & LIPP CPAs, LLP

Number of Votes For	Percent of Votes	Number of Votes Against	Percent of Votes	Number of Votes Abstained	Percent of Votes
46,336,294	99.26%	187,202	0.40%	159,861	0.34%

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### **Item 6. Exhibits**

(a) Each of the following exhibits is filed herewith:

- 10.1 First Amended and Restated Credit Agreement, dated July 21, 2006, among Sabine Pass LNG, L.C., Société Générale, HSBC Bank USA, National Association and the lenders named therein
- 10.2 Amended and Restated Collateral Agency Agreement, dated July 21, 2006, among Sabine Pass LNG, L.P., Société Générale and HSBC Bank USA, National Association
- 10.3 Amendment Agreement, dated July 21, 2006, between HSBC Bank USA, National Association and Sabine Pass LNG, L.P.
- 10.4 Amendment Agreement, dated July 21, 2006, between Société Générale, New York Branch and Sabine Pass LNG, L.P.
- 10.5 Confirmations, dated July 21, 2006, effective October 25, 2006 and March 25, 2009, between HSBC Bank USA, National Association and Sabine Pass LNG, L.P.
- 10.6 Confirmations, dated July 21, 2006, effective October 25, 2006 and March 25, 2009, between Société Générale, New York and Sabine Pass LNG, L.P.
- 10.7 Agreement for Engineering, Procurement, Construction and Management of Construction Services for the Sabine Phase 2 Receiving, Storage and Regasification Terminal Expansion, dated July 21, 2006, between Sabine Pass LNG, L.P. and Bechtel Corporation
- 10.8 Engineer, Procure and Construct (EPC) LNG Tank Contract, dated July 21, 2006, between Sabine Pass LNG, L.P., Zachry Construction Corporation and Diamond LNG LLC
- 10.9 Engineer, Procure and Construct (EPC) LNG Unit Rate Soil Contract, dated July 21, 2006, between Sabine Pass LNG, L.P. and Remedial Construction Services, L.P.
- 10.10 Change Orders 30, 32 and 33 to Lump Sum Turnkey Engineering, Procurement and Construction Agreement dated December 18, 2004, between Sabine Pass LNG, L.P. and Bechtel Corporation
- 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 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
- 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 Chief Accounting Officer  
(on behalf of the registrant and as principal  
accounting officer)

Date: August 4, 2006

FIRST AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of July 21, 2006

among

SABINE PASS LNG, L.P.,  
as the Borrower

SOCIÉTÉ GÉNÉRALE,  
as the Agent

HSBC BANK USA, NATIONAL ASSOCIATION,  
as the Collateral Agent

MIZUHO CORPORATE BANK, LTD, LLOYDS TSB BANK PLC and ING CAPITAL LLC,  
as Co-Documentation Agents

BAYERISCHE LANDESBANK, THE BANK OF NOVA SCOTIA, LANDESBANK BADEN-WÜRTTEMBERG, THE GOVERNOR & COMPANY OF THE BANK OF  
IRELAND, NORDDEUTSCHE LANDESBANK GIROZENTRALE, NEW YORK BRANCH and LANDESBANK HESSEN-THÜRINGEN,  
as Senior Managing Agents

and

LENDERS PARTY TO THIS AGREEMENT  
FROM TIME TO TIME

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This Table of Contents is not part of the Agreement to which it is attached but is inserted for convenience only.

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This AMENDED AND RESTATED CREDIT AGREEMENT (this "Agreement"), dated as of July 21, 2006, is made among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders that is a signatory to this Agreement identified as a "Lender" on the signature pages to this Agreement or that, pursuant to Section 11.06(b) of this Agreement, shall become a "Lender" under this Agreement (individually, a "Lender" and, collectively, the "Lenders"), Société Générale, as administrative agent for the Lenders (in such capacity, together with all successors and assigns in such capacity, the "Agent"), and HSBC Bank USA, National Association, as collateral agent for the Lenders (in such capacity, together with all successors and assigns in such capacity, the "Collateral Agent").

The Borrower, the Agent, the Collateral Agent and the Lenders referred to therein are parties to a credit agreement dated as of February 25, 2005 (as amended, supplemented, amended and restated or otherwise modified and in effect immediately prior to the satisfaction (or waiver) of the conditions precedent set forth in Section 6.01, the "Original Credit Agreement").

Pursuant to the Original Credit Agreement, the Borrower appointed (a) HSBC Securities (USA), Inc. and Société Générale to act as Lead Arrangers (each, a "Lead Arranger" and, collectively, the "Lead Arrangers") and (b) HSBC Securities (USA) Inc. as Syndication Agent, and the Lenders have appointed (i) Société Générale as Agent and (ii) HSBC Bank USA, National Association, as Collateral Agent.

The Lenders party to the Original Credit Agreement made available to the Borrower a facility in an aggregate principal amount of \$822,000,000 for the purpose of financing certain costs of developing, constructing and operating a LNG receiving terminal in Cameron Parish, Louisiana featuring a regasification design capacity of 2.6 billion cubic feet per day, two docks, three storage tanks with an aggregate capacity of 480,000 cubic meters and all other facilities and activities incidental thereto.

The construction of such facilities is ongoing. The Closing Date under the Original Credit Agreement occurred on February 25, 2005 and the Funding Date under the Original Credit Agreement occurred on January 25, 2006. The Lenders party to the Original Credit Agreement have to date made loans in an aggregate principal amount of \$149,000,000 to the Borrower and have an aggregate unused commitment of \$673,000,000 remaining outstanding thereunder.

The Borrower intends to expand the facilities described above to an increased design capacity aggregating, together with the original facilities, 4.0 billion cubic feet per day, with two additional storage tanks providing an aggregate capacity of 320,000 cubic meters and all other facilities and activities incidental thereto.

In connection therewith the Borrower has requested that the Lenders make loans available to it for the purpose of financing certain costs of developing, constructing and operating the original facilities and the expansion facilities described above in an aggregate principal amount, together with those amounts outstanding under the Original Credit Agreement, of up to \$1,500,000,000.

AMENDED AND RESTATED CREDIT AGREEMENT



The Lenders are prepared to make such loans and the Lenders and the Borrower wish to amend certain terms of the Original Credit Agreement and the loans outstanding thereunder and, for convenience of reference, to amend and restate in their entirety, in this Agreement, the continuing terms (as amended hereby) of the Original Credit Agreement, it being understood by the Borrower and the Lenders that the loans outstanding under the Original Credit Agreement will not be terminated but will be continued on the terms set forth herein and the Original Credit Agreement will not be terminated but will be replaced and superseded in its entirety by the provisions of this Agreement.

## ARTICLE I

### DEFINITIONS AND INTERPRETIVE MATTERS

1.01 Certain Defined Terms. In addition to the terms defined in the preamble above, and unless otherwise specified in this Agreement, capitalized terms used in this Agreement shall have the meanings assigned to such terms below. Capitalized terms and other terms used in this Agreement shall be interpreted in accordance with Sections 1.02 and 1.03, as applicable.

“Acceptable Bank” shall mean any bank or trust company which is organized under the laws of, or is a foreign bank that is licensed to do business in, the United States or any state thereof which has capital, surplus and undivided profits of at least \$500,000,000 and has outstanding unguaranteed and unsecured long-term indebtedness which is rated “A-” or better by S&P and “A3” or better by Moody’s (or an equivalent rating by another nationally recognized statistical rating organization of similar standing if neither such corporation is in the business of rating unsecured bank indebtedness).

“Additional Project Document” shall mean any Material Project Document or Other Project Document entered into by the Borrower, or by an agent on behalf of the Borrower, subsequent to the Effective Date.

“Administrative Fee” shall have the meaning assigned to such term in Section 2.04(b).

“Advance Date” shall have the meaning assigned to such term in Section 4.06.

“Affected Property” shall mean the Property of the Borrower lost, destroyed, damaged or otherwise taken as a result of any Event of Loss.

“Affiliate” shall mean, with respect to any Person, another Person that directly or indirectly Controls, or is under common Control with, or is Controlled by, such Person and, if such Person is an individual, any member of the immediate family (including parents, spouse, children and siblings) of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any Person who is Controlled by any such member or trust. Notwithstanding the foregoing, the definition of “Affiliate” shall not encompass (a) any individual solely by reason of his or her being a director, officer or employee of any Person and (b) the Agent, the Collateral Agent or any Lender.

“Agency Fee Letter” shall mean that certain letter agreement dated February 25, 2005, entered into between the Borrower and the Agent with respect to, among other matters, certain fees payable by the Borrower.

“Agent” shall have the meaning assigned to such term in the preamble.

“Agreement” shall have the meaning assigned to such term in the preamble.

“Anchor Tenant” shall mean Total LNG USA, Inc., Chevron U.S.A. Inc. and any replacement for Total LNG USA, Inc. or Chevron U.S.A. Inc. as permitted pursuant to the terms hereof.

“Ancillary Documents” shall mean, with respect to each Additional Project Document: (a) each security agreement or instrument, if any, necessary to grant to the Collateral Agent a perfected Lien in such Additional Project Document with the priority contemplated by the Security Documents (b) an opinion of counsel to each Person party to such Additional Project Document with respect to the due authorization, execution and delivery of such document and its validity and enforceability against such Person and such other matters as the Agent may reasonably request, (c) a Consent and Agreement from each Person party to such Additional Project Document and any other Person guaranteeing or otherwise supporting such Project Party’s obligations, (d) evidence of the authorization of the Borrower to execute, deliver and perform such Additional Project Document and (e) evidence that all Government Approvals then necessary for the execution, delivery and performance of such Additional Project Document have been duly obtained, were validly issued and are in full force and effect, in the case of Ancillary Documents with respect to a Material Project Document, all in form and substance reasonably satisfactory to the Majority Lenders and, in the case of Ancillary Documents with respect to an Other Project Document, all in form and substance reasonably satisfactory to the Agent.

“Applicable Lending Office” shall mean, for each Lender, the “Lending Office” of such Lender (or of an Affiliate of such Lender) designated for such Loan on Appendix A or such other office of such Lender (or of an Affiliate of such Lender) as such Lender may from time to time specify to the Agent and the Borrower as the office for its Loans; provided, that any Lender may from time to time change its “Applicable Lending Office” for each Loan by delivering notice of such change to the Agent and the Borrower.

“Applicable Margin” shall mean:

- (a) for the period from (and including) the Effective Date until the day immediately prior to the Availability End Date, 1.125%*per annum*;
- (b) for the period from (and including) the Availability End Date to the date immediately prior to the third anniversary thereof, 0.875%*per annum*; and
- (c) for the period from and including the third anniversary of the Availability End Date until the Final Maturity Date, 1.125%*per annum*.

"Approved Transferee" shall mean any Person who is not (and is not an Affiliate of a Person who is) (a) currently engaged in material litigation with the Borrower or any Pledgor, (b) in default under any material indebtedness owing to any Pledgor or the Borrower or (c) identified by the Office of Foreign Assets Control of the U.S. Department of the Treasury as subject to sanctions imposed by the U.S. Government on the basis that such Person, its Affiliates or the government of its or any of its Affiliates' home jurisdiction has engaged in or supports terrorism or other international criminal activity; provided, that no Approved Transferee individually or in aggregate with all other Approved Transferees shall own more than 50% of the Borrower.

"Assumption Agreement" shall mean the agreement for the assumption and adoption by the Pledgors, the Operator, the Borrower and other Affiliates of the Borrower of certain obligations under the Settlement Agreement.

"Authorized Officer" shall mean: (a) with respect to any Person that is a corporation or partnership, the chairman, president, vice president or treasurer of such Person, (b) with respect to any Person that is a partnership, the chairman, president, vice president or treasurer of a general partner of such Person and (c) with respect to any Person that is a limited liability company, the manager, the managing member or the chairman, president, vice-president or treasurer of such Person.

"Availability End Date" shall mean the earlier to occur of (a) date which is one calendar month following the Term Conversion Date and (b) April 1, 2009.

"Bankruptcy" shall mean, with respect to any Person, the occurrence of any of the following events, conditions or circumstances: (a) such Person shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer or consent seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file in a timely manner a petition or motion to vacate or discharge any order, judgment or decree after entry of such order, judgment or decree), (b) an involuntary case or other proceeding shall be commenced against such Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief with respect to such Person or its debts under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of 90 consecutive days, (c) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against such Person seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code, or any other present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, and such Person shall acquiesce in the entry of such order, judgment or decree or such order, judgment or decree

shall remain undischarged, unvacated or unstayed for 90 days (whether or not consecutive) from the date of entry thereof, or any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its property shall be appointed without the consent or acquiescence of such Person and such appointment shall remain unvacated and unstayed for an aggregate of 90 days (whether or not consecutive), (d) such Person shall admit in writing its inability to pay its debts as they mature or shall generally not be paying its debts as they become due, (e) such Person shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors, (f) such Person shall take any corporate or partnership action for the purpose of effecting any of the foregoing or (g) an order for relief shall be entered in respect of such Person under the Bankruptcy Code.

“Bankruptcy Code” shall mean the United States Bankruptcy Reform Act of 1978, as heretofore and hereafter amended, and codified as 11 U.S.C. Section 11et seq.

“Base Case Forecast” shall mean the financial projections dated the Effective Date relating to the Development from the Original Closing Date until the Final Maturity Date prepared by the Borrower in form and substance reasonably acceptable to the Lenders, together with a certificate of the Borrower executed by an Authorized Officer of the Borrower to the effect that (a) such projections were made in good faith and (b) the assumptions on the basis of which such projections were made were (when made) reasonable and consistent with the Phase 1 Construction Budget and Schedule, the Phase 2 Construction Budget and Schedule and the Transaction Documents (other than the Non-Material Project Documents).

“Bechtel Construction Consent” shall mean the Consent and Agreement between Bechtel Corporation, the Borrower and the Collateral Agent with respect to the Bechtel Construction Contract provided pursuant to Section 6.02(a).

“Bechtel Construction Contract” shall mean the agreement for engineering, construction, procurement and management of construction services for Phase 2 by and between the Borrower and Bechtel Corporation dated on or about July 21, 2006.

“Bechtel Construction Payment Subaccount” shall have the meaning assigned to such term in the Collateral Agency Agreement.

“Bechtel / Sabine Account Agreement” shall mean an agreement between the Borrower, Bechtel Corporation and the Collateral Agent with respect to the Bechtel Construction Payment Subaccount and the ability of Bechtel to make withdrawals of funds therefrom, in form and substance satisfactory to the Agent.

“Board” shall mean the Board of Governors of the Federal Reserve System.

“Borrower” shall have the meaning assigned to such term in the preamble.

“Borrower’s Knowledge” shall mean the earlier of actual knowledge or receipt of notice by an Authorized Officer of the Borrower or an Authorized Officer of an Affiliate of the Borrower with respect to a matter relating to a part of the Borrower’s business for which such Authorized Officer is responsible for the management or day-to-day operations.

“Borrowing Certificate” shall mean a borrowing certificate and related attachments and certifications, substantially in the form of Exhibit B-1 to this Agreement, executed by an Authorized Officer of the Borrower requesting a Loan and otherwise duly completed.

“Business Day” shall mean any day on which commercial banks are not authorized or required to be closed in New York, New York, and, if such day relates to a borrowing of, a payment or prepayment of principal of or interest on, or an Interest Period for, a Loan or a notice by the Borrower with respect to any such borrowing, payment, prepayment or Interest Period, which is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

“Capacity Reservation Fees” shall have the meaning assigned to such term in the Omnibus Agreements.

“Capital Expenditures” shall mean, for any period, capital expenditures (including the aggregate amount of Capital Lease Obligations incurred during such period) computed in accordance with GAAP (other than Project Costs or expenditures paid out of casualty insurance proceeds).

“Capital Lease Obligations” shall mean, for any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) Property of such Person to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP (including Statement of Financial Accounting Standards No. 13 of the Financial Accounting Standards Board) and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount of such obligations, determined in accordance with GAAP (including such Statement No. 13).

“Cash Flow Available for Debt Service” shall mean, for any applicable period, the amount of all Project Revenues received during such period but excluding (a) net amounts received under Permitted Swap Agreements, Net Available Amounts, proceeds of Permitted Indebtedness, contributions to capital and other extraordinary revenue items and (b) dispositions outside the ordinary course of business minus the amount of all Operation and Maintenance Expenses (exclusive, in each case, of all non-cash items).

“Change in Law” shall mean, with respect to any Lender (or its Applicable Lending Office), the occurrence after the date of the execution and delivery of this Agreement of the following events: (a) the adoption of any applicable Government Rule, (b) any change in any applicable Government Rule (including Regulation D) or in the interpretation or administration of any Government Rule (including Regulation D) by any Government Authority charged with its interpretation or administration or (c) the adoption or making of any interpretation, directive, guideline, policy or request applying to a class of Lenders including such Lender of or under any Government Rule or in the interpretation or administration of any Government Rule (including Regulation D) (whether or not having the force of law and whether or not failure to comply with would be unlawful, but with respect to which similarly situated banks generally comply) by any Government Authority charged with its interpretation or administration.

"Cheniere LNG Marketing, Inc. Terminal Use Agreement" means the LNG Terminal Use Agreement between Cheniere LNG Marketing, Inc. and Sabine Pass LNG, L.P. dated March 31, 2006.

"Chevron Consent" shall mean the Consent and Agreement among Chevron U.S.A. Inc., the Borrower and the Collateral Agent with respect to the Chevron TUA.

"Chevron TUA" shall mean the Terminal Use Agreement dated as of November 8, 2004 between Chevron U.S.A. Inc. and the Borrower.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" shall mean: (a) the "Collateral" as defined in the Security Agreement and the Pledge Agreements and (b) all other collateral of whatsoever nature purported to be subject to the Lien of any Security Document.

"Collateral Accounts" shall mean the Phase 1 Construction Account, the Phase 2 Construction Account (including the Phase 1 Construction Payment Subaccount, the Phase 1 Punchlist Retention Subaccount, the Bechtel Construction Payment Subaccount, the Phase 2 Construction Payment Subaccount and the Phase 2 Punchlist Retention Subaccount), the Debt Service Reserve Account, the Debt Service Accrual Account, the Insurance Proceeds Account, the Operating Account, the Income Tax Reserve Account, the Distribution Account and the Revenue Account, as each such term is defined in the Collateral Agency Agreement.

"Collateral Agency Agreement" shall mean the Amended and Restated Collateral Agency Agreement among the Collateral Agent, the Securities Intermediary, the Agent and the Borrower substantially in the form of Exhibit K to this Agreement.

"Collateral Agency Fee" shall have the meaning assigned to such term in Section 2.04(b).

"Collateral Agent" shall have the meaning assigned to such term in the preamble.

"Collateral Agent Fee Letter" shall mean that certain letter agreement dated on or about July 21, 2006, entered into between the Borrower and the Collateral Agent with respect to, among other matters, certain fees payable to the Collateral Agent.

"Commitment" shall mean, at any time for any Lender, the amount set forth next to such Lender's name on Appendix A to this Agreement under the headings "Commitment of Phase 1 Allocation" and "Commitment of Phase 2 Allocation", as applicable (as the same may be adjusted from time to time pursuant to Section 2.03 or as a consequence of an assignment in accordance with Section 11.06(b)). On the Effective Date, the aggregate unused amount of the Commitments of the Lenders shall not exceed \$1,351,000,000.

"Commitment Fee" shall have the meaning assigned to such term in Section 2.04(a).

“Confirmation” shall mean the confirmation of the Operator, Manager, Borrower, Sabine Pass LNG – LP, LLC, the Collateral Agent and the Agent dated July 21, 2006.

“Consent and Agreement” shall mean (a) each TUA Consent, (b) the Phase 1 EPC Consent, (c) the Phase 2 Construction Consents, (d) each other Consent and Agreement among a Material Project Party (other than each counterparty to a Lease Agreement), the Borrower and the Collateral Agent substantially in the form attached to this Agreement as Exhibit L (as applicable) (or such other form as is reasonably acceptable to the Agent and the Borrower) and (e) the Estoppel Certificates.

“Construction Account” shall have the meaning given such term in the Collateral Agency Agreement.

“Construction Report” shall mean a Phase 1 Construction Report or a Phase 2 Construction Report, as the case may be.

“Contest” shall mean, with respect to any Person, with respect to any Taxes or any Lien imposed on Property of such Person (or the related underlying claim for labor, material, supplies or services) by any Government Authority for Taxes or with respect to obligations under ERISA or any Mechanics’ Lien (each, a “Subject Claim”), a contest of the amount, validity or application, in whole or in part, of such Subject Claim pursued in good faith and by appropriate legal, administrative or other proceedings diligently conducted so long as: (a) adequate reserves have been established with respect to such Subject Claim in accordance with GAAP, (b) during the period of such contest the enforcement of such Subject Claim is effectively stayed and any Lien (including any inchoate Lien) arising by virtue of such Subject Claim shall, if required by applicable Government Rule, be effectively secured by posting of cash collateral or a surety bond (or similar instrument) by a reputable surety company, (c) neither the Agent nor any Lender could reasonably be expected to be exposed to any risk of criminal liability or civil liability as a result of such contest and (d) the failure to pay such Subject Claim under the circumstances described above could not otherwise reasonably be expected to have a Material Adverse Effect. The term “Contest” used as a verb shall have a correlative meaning.

“Contingency” shall mean the Dollar amount identified as “Contingency” in the Phase 1 Construction Budget and Schedule or Phase 2 Construction Budget and Schedule, as applicable, to be used to fund payment of Project Costs reasonably and necessarily incurred by the Borrower that are not line items, or are in excess of the line item amounts (except as contingency line items), in the Phase 1 Construction Budget and Schedule or Phase 2 Construction Budget and Schedule, as applicable.

“Control” (including, with its correlative meanings, “Controlled by” and “under common Control with”) shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) and, in any event, any Person owning at least fifty percent (50%) of the voting securities of another Person shall be deemed to Control that Person.

“Debt Service” shall mean, for any period, the sum, computed without duplication, of the following: (a) all amounts payable by the Borrower in respect of scheduled payments of principal of Permitted Indebtedness for such period (other than prepayments of Loans payable during such period pursuant to Section 3.04 and, for the avoidance of doubt, any payments of Subordinated Indebtedness) plus (b) all amounts payable by the Borrower in respect of Interest Expense for such period plus (c) all commitment fees payable in accordance with Section 2.04(a), all fees payable in accordance with the Fee Letters during such period and all other commitment fees, agency fees, trustee fees or other fees, costs or expenses payable in connection with the Indebtedness referred to in clause (a) above during such period plus (d) all amounts, if any, due and payable to the applicable Lenders in respect of settlement or termination payments under Permitted Swap Agreements.

“Debt Service Accrual Account” shall have the meaning assigned to such term in the Collateral Agency Agreement.

“Debt Service Coverage Ratio” shall mean, as at each Quarterly Date, the ratio of Cash Flow Available for Debt Service for the preceding 12-month period to the aggregate amount of Debt Service with respect to the Permitted Indebtedness referred to in Section 8.16(a) and (b) payable for the preceding 12-month period; provided, that (a) for each calendar quarter prior to the first anniversary of the Term Conversion Date, the Debt Service Coverage Ratio shall be calculated using the quarterly financial statements available as of such calculation date and (b) the Debt Service Coverage Ratio shall not be calculated for the first calendar quarter following the Term Conversion Date.

“Debt Service Reserve Account” shall have the meaning assigned to such term in the Collateral Agency Agreement.

“Default” shall mean an Event of Default or an event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would become an Event of Default.

“Designee Lender” shall have the meaning assigned to such term in Section 11.06(c).

“Development” shall mean the development, acquisition, ownership, occupation, construction, equipping, testing, repair, operation, maintenance and use of the Project and the sale of Services or other products or by-products of the Project. “Develop” and “Developed” shall have the correlative meanings.

“Distribution Account” shall have the meaning assigned to such term in the Collateral Agency Agreement.

“Dollars” and “\$” shall mean lawful money of the United States.

“Easement Properties” shall mean the licenses, tenements, hereditaments, easements and rights of way, as further described in the Mortgage.

“Effective Date” shall have the meaning assigned to such term in Section 6.01.



“Emergency Capex” shall mean any Capital Expenditures that (a) are required as a result of an emergency that poses a material threat to the health, safety or the environment and (b) do not exceed in aggregate \$5,000,000 for any given year.

“Environmental Claim” shall mean any claim or demand (collectively, a “claim”) by any Person alleging or asserting liability for investigatory costs, cleanup or other remedial costs, legal costs, environmental consulting costs, governmental response costs, damages to natural resources or other property, personal injuries, fines or penalties related to (a) the presence, or Release into the environment, of any Hazardous Material at any location, whether or not owned by the Person against whom such claim is made, or (b) any violation of any Environmental Law. The term “Environmental Claim” shall include any claim by any person or Government Authority for enforcement, cleanup, removal, response, remedial action or damages pursuant to any Environmental Law, and any claim by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief under any Environmental Law.

“Environmental Law” shall mean all federal, state, and local statutes, laws, regulations, rules, judgments (including all tort causes of action), orders or decrees, in each case as modified and supplemented and in effect from time to time relating to the regulation or protection of the environment, health and safety, natural resources or to emissions, discharges, Releases or threatened Releases of Hazardous Materials into the environment, including ambient air, soil, surface water, groundwater, wetlands, coastal waters, land or subsurface strata, or otherwise relating to the generation, manufacture, processing, distribution, Use, treatment, storage, disposal, transport or handling of Hazardous Materials.

“Equity Contribution Amount” shall mean \$236,715,027.17.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” shall mean any corporation or trade or business which is a member of any group of organizations: (a) described in Section 414(b) or (c) of the Code of which the Borrower is a member and (b) solely for purposes of potential liability under Section 302(c)(11) of ERISA and Section 412(c)(11) of the Code and the lien created under Section 302(f) of ERISA and Section 412(n) of the Code, described in Section 414(m) or (o) of the Code of which the Borrower is a member.

“ERISA Event” shall mean (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived), (b) the existence with respect to any Plan of an “accumulated funding deficiency” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived, (c) the filing pursuant to Section 412(d) of the Code or Section 303 of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any

Plan, (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“Escrow Account” shall mean an escrow account established pursuant to Section 18.4 of the Phase 1 EPC Contract.

“Estoppel Certificate” shall mean each certificate of a counterparty to a Lease Agreement (other than the counterparty to the Lease Agreement referred to in paragraph 3 of Appendix E) delivered pursuant to Section 13.4 of such Lease Agreement.

“Event of Default” shall have the meaning assigned to such term in Section 9.01.

“Event of Loss” shall mean any loss of, destruction of or physical damage to any Property of the Borrower and shall include an Event of Taking.

“Event of Taking” shall mean any taking, seizure, confiscation, requisition, exercise of rights of eminent domain, public improvement, inverse condemnation, condemnation or similar action of or proceeding by any Government Authority relating to all or any part of the Project.

“Excluded Taxes” shall mean, with respect to the Agent, the Collateral Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) income or franchise taxes imposed on (or measured by) its net income by the United States, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its Applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 5.05(b)), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement or is attributable to such Foreign Lender’s failure or inability to comply (other than as a result of a Change in Law after the date hereof) with Section 5.04(e) or Section 5.05(b), except to the extent that such Foreign Lender’s assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 5.04(a).

“Federal Funds Rate” shall mean, for any day, the rate *per annum* (rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, that (a) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (b) if such rate is not so published for any day, the Federal Funds Rate for

such day shall be the average of the quotations for such day on such transactions received by the Agent from three federal funds brokers of recognized standing selected by it.

“Fee Letters” shall mean, collectively, the Agency Fee Letter and each other fee letter between the Borrower, each of the Lead Arrangers and the Collateral Agent.

“FERC” shall mean the United States Federal Energy Regulatory Commission or any successor thereto having jurisdiction over the transportation of natural gas through, or the siting, construction or operation of, the Project.

“Final Borrowing Certificate” shall mean the Final Borrowing Certificate and related attachments and certifications substantially in the form of Exhibit B-2 to this Agreement, executed by an Authorized Officer of the Borrower requesting a final Loan pursuant to Section 6.04 and otherwise duly completed.

“Final Funding Date” shall mean the date on which all of the conditions set forth in Section 6.04 shall have been satisfied (or waived by the Lenders).

“Final Maturity Date” shall mean July 1, 2015; provided, that if such date is not a Business Day, the Final Maturity Date shall be the next preceding Business Day.

“Financing Documents” shall mean (a) this Agreement, (b) the Fee Letters, (c) each of the Security Documents, (d) the Permitted Swap Agreements and (e) each Consent and Agreement.

“Foreign Lender” shall mean any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Gas” shall mean any hydrocarbon or mixture of hydrocarbons consisting predominantly of methane which is in a gaseous state.

“GAAP” shall mean generally accepted accounting principles in the United States applied on a basis consistent with those principles set forth in Section 1.02(a).

“Government Approval” shall mean (a) any authorization, consent, approval, license, lease, ruling, permit, tariff, rate, certification, waiver, exemption, filing, variance, claim, order, judgment or decree of, by or with, (b) any required notice to, (c) any declaration of or with or (d) any registration by or with, any Government Authority, in each case relating to the Development except to the extent routine or ministerial in nature or not otherwise material to the Development or the Borrower’s compliance with any Government Rule or obtaining or maintaining any Government Approval.

“Government Authority” shall mean any federal, state or local government or political subdivision thereof or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Person or matters in question.

"Government Rule" shall mean any statute, law, regulation, ordinance, rule, judgment, order, decree, permit, concession, grant, franchise, license, agreement, directive, requirement of, or other governmental restriction or any similar binding form of decision of or determination by, or any binding interpretation or administration of any of the foregoing by, any Government Authority, including all common law, whether now or hereafter in effect.

"Guarantee" shall mean a guarantee, an endorsement, a contingent agreement to purchase or to furnish funds for the payment or maintenance of, or otherwise to be or become contingently liable under or with respect to, the Indebtedness, other obligations, net worth, working capital or earnings of any Person, or a guarantee of the payment of dividends or other distributions upon the stock or equity interests of any Person, or an agreement to purchase, sell or lease (as lessee or lessor) Property of any Person, products, materials, supplies or services primarily for the purpose of enabling a debtor to make payment of his, her or its obligations or an agreement to assure a creditor against loss, and including causing a bank or other financial institution to issue a letter of credit or other similar instrument for the benefit of another Person, but excluding (a) endorsements for collection or deposit in the ordinary course of business and (b) customary non-financial indemnity or hold harmless provisions included in contracts entered into in the ordinary course of business. The terms "Guarantee" and "Guaranteed" used as verbs shall have correlative meanings.

"Guaranteed Substantial Completion Date" shall have the meaning assigned to such term in the Phase 1 EPC Contract (a) without giving effect to any Phase 1 Change Order that affects such date, except any such Phase 1 Change Order which has been approved by the Agent and the Majority Lenders or (b) after giving effect to an agreement in principle between the Borrower and the Phase 1 EPC Contractor to extend the Guaranteed Substantial Completion Date as a result of a force majeure event (as defined in the Phase 1 EPC Contract), but only until such time as a Phase 1 Change Order with respect to such agreed extension has been approved or rejected by the Majority Lenders pursuant to Section 8.20; provided, that such Phase 1 Change Order is presented to the Lenders for approval within three months of the Borrower's receipt from the Phase 1 EPC Contractor of a written request for such extension.

"Hazardous Material" shall mean: (a) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, friable asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls (PCBs), (b) any chemicals, other materials, substances or wastes which are now or hereafter become defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous wastes", "restricted hazardous wastes", "toxic substances", "toxic pollutants", "contaminants", "pollutants" or words of similar import under any Environmental Law and (c) any other chemical, material, substance or waste which is now or hereafter regulated under or with respect to which liability or standards of conduct are imposed under any Environmental Law.

"Hedging Agreement" shall mean any agreement in respect of any interest rate, swap, forward rate transaction, commodity swap, commodity option, interest rate option (other than this Agreement), interest or commodity cap, interest or commodity collar transaction, currency swap agreement, currency future or option contract, or other similar agreements.

"Impairment" shall mean, with respect to any Transaction Document (other than a Non-Material Project Document) or Government Approval, (a) the rescission, early termination, cancellation, repeal or invalidity thereof, (b) the suspension or injunction thereof or (c) the inability to satisfy in a timely manner stated conditions to effectiveness or amendment, modification or supplementation (other than, in the case of a Transaction Document (other than a Non-Material Project Document), any such amendment, modification or supplementation effected in accordance with Section 8.21 and, in the case of a Government Approval, any such amendment, modification or supplementation effected in accordance with Section 8.03(b)) of such Transaction Document or Government Approval in whole or in part. The verb "impair" shall have a correlative meaning.

"Income Tax Reserve Account" shall have the meaning assigned to such term in the Collateral Agency Agreement.

"Indebtedness" shall mean, for any Person, without duplication, (a) all obligations of such Person for borrowed money or in respect of deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations of such Person in respect of any Hedging Agreement and (k) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnification Agreement" shall mean an indemnification agreement substantially in the form of Exhibit A to the Assumption Agreement.

"Indemnified Taxes" shall mean Taxes other than Excluded Taxes.

"Indemnitee" shall have the meaning assigned to such term in Section 11.03.

"Independent Engineer" shall mean Stone & Webster Management Consultants, Inc. or such other Person, so long as no Default has occurred and is continuing, reasonably acceptable to the Borrower, as the Agent may engage on behalf of the Lenders to act as Independent Engineer for the purposes of this Agreement.

"Initial Phase 2 Funding Date" shall mean the first date on which all of the conditions set forth in Sections 6.01, Section 6.02 and Section 6.03 shall have been satisfied (or waived by the Lenders) and a Phase 2 Loan made.

"Insurance Advisor" shall mean Aon Risk Services Inc. or such other Person, so long as no Default has occurred and is continuing, reasonably acceptable to the Borrower, as the Agent may engage on behalf of the Lenders to act as Insurance Advisor for the purposes of this Agreement.

"Insurance Proceeds Account" shall have the meaning assigned to such term in the Collateral Agency Agreement.

"Interest Expense" shall mean, for any period, the sum, computed without duplication, of the following: (a) all interest in respect of Permitted Indebtedness accrued or capitalized during such period (whether or not actually paid during such period) (other than, for the avoidance of doubt, any payments of Subordinated Indebtedness) plus (b) the net amounts payable (or minus the net amounts receivable) under Permitted Swap Agreements accrued during such period (whether or not actually paid or received during such period).

"Interest Period" shall mean, (a) prior to the Final Funding Date, with respect to any Loan, each period commencing on the date such Loan is made or the last day of the next preceding Interest Period for such Loan and ending on the numerically corresponding day in the first calendar month thereafter and (b) following the Final Funding Date, with respect to any Loan, each period commencing on the last day of the next preceding Interest Period for such Loan and ending on the numerically corresponding day in the sixth calendar month thereafter, or if any such day is not a Business Day, the next preceding Business Day.

Notwithstanding the foregoing paragraph: (a) no Interest Period may commence before and end after the Final Maturity Date, any Principal Payment Date or any Semi-Annual Date, (b) each Interest Period which would otherwise end on a day which is not a Business Day shall end on the next succeeding Business Day (or, if such next succeeding Business Day falls in the next succeeding calendar month, on the next preceding Business Day) and (c) notwithstanding clause (a) above, no Interest Period shall have a duration of less than one month and, if the Interest Period would otherwise be a shorter period, such Loan shall not be available under this Agreement.

"Interest Rate Protection Agreement" shall mean, for any Person, any interest rate swap, cap or collar agreement or similar arrangement between such Person and one or more financial institutions providing for the transfer or mitigation of interest rate risks either generally or under specific contingencies.

"International LNG Terminal Standards" shall mean 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 Government Authority having jurisdiction over the Borrower, (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.

“Investment” shall mean, for any Person: (a) the acquisition (whether for cash, Property of such Person, services or securities or otherwise) of capital stock, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person or any agreement to make any such acquisition (including any “short sale” or any other sale of any securities at a time when such securities are not owned by the Person entering into such sale), (b) the making of any deposit with, or advance, loan or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person, but excluding any such advance, loan or extension of credit having a term not exceeding 90 days representing the purchase price of inventory or supplies sold in the ordinary course of business) and (c) the entering into of any Guarantee of, or other contingent obligation (other than an indemnity which is not a Guarantee) with respect to, Indebtedness or other liability of any other Person.

“J&S Cheniere Terminal Use Agreement” shall mean the terminal use or similar agreement to be entered into pursuant to the Option Agreement dated December 23, 2003 between Cheniere LNG Inc. and J&S Cheniere S.A.

“Lead Arrangers” shall have the meaning assigned to such term in the preamble.

“Lease Agreement” shall mean the agreements between the Borrower and any landowner listed on Appendix E granting a lease or an option to lease real property situated in Cameron Parish, Louisiana in connection with the Project.

“Lender” and “Lenders” shall have the meanings assigned to such terms in the preamble.

“LIBO Rate” shall mean, with respect to any Loan for any Interest Period, the rate appearing on Page 3750 of the Dow Jones Markets (Telerate) Service (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Agent from time to time for purposes of providing quotations of interest rates applicable to Dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, on the day that is two Business Days (or, in the case of the initial Loan hereunder, 1 Business Day) prior to the commencement of such Interest Period, as the rate for the offering of Dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the LIBO Rate for such Interest Period shall be the rate at which Dollar deposits of \$5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

“Lien” shall mean, with respect to any Property of any Person, any mortgage, lien, pledge, charge, lease, easement, servitude, security interest or encumbrance of any kind in respect of such Property of such Person. For purposes of this Agreement and the other Financing Documents, a Person shall be deemed to own subject to a Lien any Property which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement (other than an operating lease) relating to such Property.

“LNG” shall mean Gas in a liquid state at or below its boiling point at a pressure of approximately one atmosphere.

“LNG Vessel” shall mean an ocean-going vessel suitable for transporting LNG.

“Loan” or “Loans” shall mean the loans provided for by Section 2.01.

“Loss Proceeds” shall mean insurance proceeds, condemnation awards or other compensation, awards, damages and other payments or relief (exclusive, in each case, of the proceeds of liability insurance and business interruption insurance and other payments for interruption of operations) with respect to any Event of Loss.

“Majority Lenders” shall mean, subject to the last paragraph of Section 11.04, Lenders holding over 50% of the aggregate outstanding Commitments or, if the Commitments have terminated, Lenders holding over 50% of the aggregate unpaid principal amount of the Loans.

“Management Services Agreement” shall mean the agreement dated February 25, 2005 between the Borrower and the Manager for the management and administration of the Borrower.

“Manager” shall mean Sabine Pass LNG – GP, Inc., a Delaware corporation.

“Margin Stock” shall mean margin stock within the meaning of Regulation U and Regulation X.

“Master Assignment and Acceptance Agreement” shall mean a master assignment and acceptance agreement among the assignors and assignees listed on the signature pages hereto (being the lenders party to the Original Credit Agreement and the Lenders party hereto), the Collateral Agent, the Agent and the Borrower, substantially in the form of Exhibit H-1.

“Material Adverse Effect” shall mean any act, event or condition which has a material adverse effect on one or more of the following: (a) the business or financial condition of the Borrower or the ability of the Borrower to perform its payment obligations under any Financing Document, (b) the ability of any Project Party to comply with its material obligations under any Material Project Document to which it is a party or (c) the enforceability of any Financing Document or Material Project Document or the rights or remedies of the Lenders thereunder.



“Material Project Documents” shall mean (a) each TUA signed with an Anchor Tenant (together with each guarantee thereof), (b) the Phase 1 EPC Contract, (c) each Phase 2 Construction Contract, (d) the O&M Agreement, (e) each Omnibus Agreement, (f) the Lease Agreements, (g) the Partnership Agreement, (h) the Management Services Agreement, (i) the Indemnification Agreement, (j) the Tank Contractor Guarantee and (k) any replacement of (or guarantee or credit support related to) any of the foregoing.

“Material Project Parties” shall mean each Pledgor, the Operator, each other party to a Material Project Document (other than the Borrower) and each Person party to a credit support instrument provided in connection with any Material Project Document.

“Mechanics’ Liens” shall mean carriers’, warehousemen’s, mechanics’, workmen’s, materialmen’s, construction or other like statutory Liens.

“Moody’s” shall mean Moody’s Investors Service, Inc.

“Mortgage” shall mean the multiple indebtedness mortgage, assignment of leases and rents, and security agreement dated February 23, 2005 granted by the Borrower for the benefit of the Collateral Agent as amended by the “First Amendment to Multiple Indebtedness Mortgage, Assignment of Leases and Rents, and Security Agreement”, dated January 19, 2006.

“Multiemployer Plan” shall mean a multiemployer plan defined as such in Section 3(37) of ERISA to which contributions have been made by the Borrower or any ERISA Affiliate and which is covered by Title IV of ERISA.

“Negotiation Period” shall have the meaning assigned to such term in Section 5.01(b)(i).

“Net Available Amount” shall mean the aggregate amount of Loss Proceeds received by the Borrower in respect of an Event of Loss net of reasonable expenses incurred by the Borrower in connection with the collection of such Loss Proceeds.

“Net Worth” shall mean, as to any Person, as of any date of determination, the sum of (a) the consolidated common and preferred stockholders’ equity of such Person and its consolidated Subsidiaries, plus (b) the cumulative amount by which the stockholders’ equity of such Person shall have been reduced by reason of non-cash write downs of long-term assets from December 31, 2005, plus (c) those items included as “preferred interests of consolidated subsidiaries” (or analogous line item) as listed on the consolidated balance sheet of such Person as of the date of the annual financial statement issued prior to the date of determination used for this definition and regardless of any change after December 31, 2005 in accounting treatment thereof, plus (d) those items included as “minority interests of consolidated subsidiaries” (or analogous line item) as listed on the consolidated balance sheet of such Person as of the date of the annual financial statement issued prior to the date of determination used for this definition and regardless of any change after December 31, 2005 in accounting treatment thereof, and minus (e) accumulated other comprehensive income (loss) (or analogous line item).

“NGA” shall mean the United States Natural Gas Act of 1938, as heretofore and hereafter amended, and codified 15 U.S.C. §717et seq.

“Non-Material Project Documents” shall mean each contract or agreement other than Material Project Documents and Other Project Documents to which the Borrower is a party, including contracts or agreements for legal, accounting, engineering, environmental consulting or other professional services in connection with the Development (other than to the extent such are Material Project Documents, Other Project Documents or contracts or agreements in substitution of any Material Project Document or Other Project Documents) in accordance with the Phase 1 Construction Budget and Schedule or the Phase 2 Construction Budget and Schedule, as applicable, or the then current Operating Budget, as the case may be.

“Nonrecourse Persons” shall have the meaning assigned to that term in Section 11.09.

“Notice of Borrowing” shall mean the notice of borrowing referred to in Section 4.05.

“O&M Agreement” shall mean the agreement dated February 25, 2005 between the Borrower and the Operator for the operation and maintenance of the Project.

“Omnibus Agreement” shall mean (a) the Omnibus Agreement dated as of September 2, 2004 between Total LNG USA, Inc. and the Borrower and (b) the Omnibus Agreement dated as of November 8, 2004 between the Borrower and Chevron U.S.A. Inc.

“Operating Account” shall have the meaning assigned to such term in the Collateral Agency Agreement.

“Operating Budget” shall mean a budget, prepared and certified by the Borrower, in accordance with Section 8.22, of Operation and Maintenance Expenses expected to be incurred by the Borrower during the relevant fiscal year to which such budget applies.

“Operation and Maintenance Expenses” shall mean, for any period, the sum, computed without duplication, of the following: (a) general and administrative expenses including expense reimbursement payable to the Manager pursuant to Section 6.7 of the Partnership Agreement and for ordinary course fees and costs of the Manager pursuant to the Management Services Agreement plus (b) expenses for operating the Project and maintaining it in good repair and operating condition payable during such period, including the ordinary course fees and costs of the Operator payable pursuant to the O&M Agreement plus (c) insurance costs payable during such period plus (d) applicable sales and excise taxes (if any) payable or reimbursable by the Borrower during such period plus (e) franchise taxes payable by the Borrower during such period plus (f) property taxes payable by the Borrower during such period plus (g) any other direct taxes (if any) payable by the Borrower during such period plus (h) costs and fees attendant to the obtaining and maintaining in effect the Government Approvals payable during such period plus (i) legal, accounting and other professional fees attendant to any of the foregoing items payable during such period plus (j) any fees and expenses of the Secured Parties during such period not included in Debt Service plus (k) all other cash expenses payable by the Borrower in the ordinary course of business. Operation and Maintenance Expenses shall exclude, to the extent included above: (i) payments into any of the Collateral Accounts during such period, (ii) payments of any kind with respect to Restricted Payments during such period,

(iii) depreciation for such period, (iv) any Capital Expenditure including Permitted Capital Expenditures and (v) any payments of any kind with respect to any Restoration during such period. Notwithstanding the foregoing, for the purpose of calculating the Debt Service Coverage Ratio, Operation and Maintenance Expenses shall not include the actual cash expenditures for items (c), (e), (f) and (g) above, but shall instead include the appropriate accrual for such items.

“Operator” shall mean Cheniere LNG O&M Services, L.P., a Delaware limited partnership, or any replacement thereof in accordance with the terms of this Agreement.

“Original Closing Date” shall mean February 25, 2005, the date on which all conditions precedent to the execution of the Original Credit Agreement were satisfied (or waived by the Lenders).

“Original Credit Agreement” shall have the meaning assigned to such term in the preamble.

“Original Funding Date” shall mean January 25, 2006, the date on which all of the conditions set forth in Section 6.02 of the Original Credit Agreement were satisfied (or waived by the Lenders).

“Other Project Documents” shall mean: (a) the J&S Cheniere Terminal Use Agreement, (b) the Assumption Agreement, (c) each other contract or agreement entered into by the Borrower related to the Development (other than the Material Project Documents) which has, or as a result of any amendment to a Non-Material Document would have, a term of more than five years (with respect to any contract that involves payments to or by the Borrower in excess of \$5,000,000) or involves payments to or by the Borrower of amounts in excess of \$50,000,000 (including any related guarantee or credit support agreement or instrument), (d) the Cheniere LNG Marketing, Inc. Terminal Use Agreement and (e) each contract entered into by the Borrower with an Affiliate of the Borrower pursuant Section 8.24(d).

“Other Taxes” shall mean any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made under any Financing Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Financing Document.

“Participant” shall have the meaning assigned to such term in Section 11.06(c).

“Partnership Agreement” shall mean the Fourth Amended and Restated Agreement of Limited Partnership of Sabine Pass, LNG L.P., effective as of February 25, 2005.

“Patriot Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, signed into law October 26, 2001.

“Payor” shall have the meaning assigned to such term in Section 4.06.

“PBGC” shall mean the Pension Benefit Guaranty Corporation or any successor trustee.

“Permitted Capital Expenditures” shall mean Capital Expenditures that (a) are Emergency Capex, (b) are incurred prior to the Final Maturity Date and are less than \$7,500,000 in any given fiscal year or \$25,000,000 in the aggregate or (c) are otherwise used for the Project and, with respect to clause (c), (i) are funded entirely by equity or Permitted Indebtedness, (ii) are funded entirely from the Distribution Account as set forth in Section 4.07(b) of the Collateral Agency Agreement or (iii) are funded by insurance proceeds each as expressly permitted herein and, in the case of clauses (i), (ii) or (iii), could not reasonably be expected to have a Material Adverse Effect or materially and adversely affect the Borrower’s rights, duties, obligations or liabilities under any TUA with an Anchor Tenant.

“Permitted Indebtedness” shall mean the Indebtedness permitted under Section 8.16.

“Permitted Investments” shall mean (a) marketable direct obligations of the United States of America, (b) marketable obligations directly and fully guaranteed as to interest and principal by the United States of America, (c) demand deposits with the Collateral Agent, and time deposits, certificates of deposit and banker’s acceptances issued by an Acceptable Bank, (d) commercial paper or tax-exempt obligations given the highest rating by S&P and Moody’s, (e) obligations of the Collateral Agent meeting the requirements of clause (c) above or any other bank meeting the requirements of clause (c) above, in respect of the repurchase of obligations of the type as described in clauses (a) and (b); provided, that such repurchase obligations shall be fully secured by obligations of the type described in said clauses (a) and (b) above, and the possession of such obligations shall be transferred to, and segregated from other obligations owned by, the Collateral Agent or such other bank, (f) a money market fund or a qualified investment fund (including any such fund for which the Collateral Agent or any Affiliate thereof acts as an advisor or a manager) given one of the two highest long-term ratings available from S&P and Moody’s and (g) eurodollar certificates of deposit issued by the Collateral Agent meeting the requirements of clause (c) above or any other bank meeting the requirements of clause (c) above. In no event shall any cash be invested in any obligation, certificate of deposit, acceptance, commercial paper or instrument which by its terms matures more than 90 days after the date of investment, unless the Collateral Agent or a bank meeting the requirements of clause (c) above shall have agreed to repurchase such obligation, certificate of deposit, acceptance, commercial paper or instrument at its purchase price plus earned interest within no more than 90 days after its purchase hereunder. With respect to any rating requirement set forth above, if the relevant issuer is rated by either S&P or Moody’s, but not both, then only the rating of such rating agency shall be utilized for the purpose of this definition.

“Permitted Liens” shall mean the Liens permitted under Section 8.13.

“Permitted Swap Agreement” shall mean any Interest Rate Protection Agreement between the Borrower and any Lender that is an Acceptable Bank entered into in accordance with the terms of Section 8.15; provided, that such Interest Rate Protection Agreement shall not rank greater than *pari passu* with this Agreement.

“Person” shall mean any individual, corporation, company, voluntary association, partnership, joint venture, trust, limited liability company, unincorporated organization or Government Authority.

“Phase 1” shall mean the LNG receiving terminal in Cameron Parish, Louisiana, featuring a regasification design capacity of approximately 2.6 billion cubic feet per day, two docks and three storage tanks with an aggregate capacity of approximately 480,000 cubic meters and all other facilities and activities incidental to the foregoing, to be constructed and owned by the Borrower but excluding the Pipeline or any other pipeline outside the Site.

“Phase 1 Allocation” shall mean the total amount of the Commitment available for Phase 1 Loans, which amount shall be \$961,900,000.

“Phase 1 Change Order” shall have the meaning assigned to the term “Change Order” in the Phase 1 EPC Contract.

“Phase 1 Commercial Start Date” shall have the meaning assigned to the term “Commercial Start Date” in the Total TUA.

“Phase 1 Construction Account” shall have the meaning assigned to such term in the Collateral Agency Agreement.

“Phase 1 Construction Budget and Schedule” shall mean (a) a budget as set forth in Appendix F setting forth, on a monthly basis, the timing and amount of all projected payments of Phase 1 Project Costs from the Original Closing Date through the projected date of Phase 1 Final Completion and (b) a schedule setting forth the proposed engineering, procurement, construction and testing milestone schedule for the Development of Phase 1 through the projected date of Phase 1 Final Completion, which budget and schedule (i)(A) shall be certified by the Borrower as the best reasonable estimate of the information set forth therein as of the Effective Date, (B) shall be consistent with the requirements of the Transaction Documents with respect to Phase 1 (other than the Non-Material Project Documents) and (C) shall be in form and substance acceptable to the Lenders and (ii) may be modified from time to time in conformance with the Phase 1 EPC Contract and the other Transaction Documents with respect to Phase 1 (other than the Non-Material Project Documents) that are permitted hereunder.

“Phase 1 Construction Report” shall mean a “Construction Report”, substantially in the form of Exhibit G-1 to this Agreement, certified by an Authorized Officer of the Borrower and delivered from time to time as contemplated by Section 8.19.

“Phase 2 Construction Report” shall mean a “Construction Report”, substantially in the form Exhibit G-2 to this Agreement, certified by an Authorized Officer of the Borrower and delivered from time to time as contemplated by Section 8.19.

“Phase 1 EPC Consent” shall mean the Acknowledgement and Consent Agreement between the Phase 1 EPC Contractor, the Borrower and the Collateral Agent dated as of February 25, 2005.

“Phase 1 EPC Contract” shall mean the lump sum turnkey agreement for the engineering, procurement and construction of Phase 1 by and between the Borrower and the Phase 1 EPC Contractor dated as of December 18, 2004.

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“Phase 1 EPC Contractor” shall mean Bechtel Corporation, in its capacity as contractor under the Phase 1 EPC Contract.

“Phase 1 Event of Abandonment” shall mean (a) a formal, public announcement by the Borrower of a decision to abandon or indefinitely defer the construction, completion or operation of Phase 1 for any reason, (b) Suspension or abandonment for more than 120 days of the Development of Phase 1 or (c) the Borrower shall make any filing with FERC giving notice of the intent or requesting authority to abandon the construction, completion or operation of Phase 1 for any reason; provided, however, that any suspension or delays in construction, completion or operation of Phase 1 caused by a force majeure event shall not constitute an “Event of Abandonment” so long as the Borrower is diligently attempting to restart the construction, operation or completion of Phase 1.

“Phase 1 Final Completion” shall have the meaning assigned to the term “Final Completion” in the Phase 1 EPC Contract.

“Phase 1 Loan” shall mean the portion of any Loan made with respect to Phase 1 (or as otherwise permitted herein) from the Phase 1 Allocation, (which, together with any Phase 2 Loan made on the same date, shall be a “Loan”).

“Phase 1 Project Costs” shall mean all costs, fees, taxes and expenses incurred by the Borrower to complete Phase 1 as contemplated by (and consistent with) the Transaction Documents with respect to Phase 1 (including the Phase 1 Construction Budget and Schedule) and Government Approvals.

“Phase 1 Substantial Completion” shall have the meaning assigned to the term “Substantial Completion” in the Phase 1 EPC Contract.

“Phase 1 Substantial Completion Date” shall mean the date on which Phase 1 Substantial Completion has occurred in accordance with the Phase 1 EPC Contract; provided, that the Independent Engineer shall have confirmed that the conditions thereto have been satisfied.

“Phase 2” shall mean the expansion of the LNG receiving terminal in Cameron Parish, Louisiana, featuring an increased design capacity aggregating, together with Phase 1, 4.0 billion cubic feet per day, two additional storage tanks with an aggregate capacity of approximately 320,000 cubic meters and all other facilities and activities incidental to the foregoing, to be constructed and owned by the Borrower but excluding the Pipeline or any other pipeline outside the Site.

“Phase 2 Allocation” shall mean the total amount of the Commitment available for Phase 2 Loans, which amount shall be \$538,100,000.

“Phase 2 Change Order” shall have the meaning assigned to the term “Change Order” in any Phase 2 Construction Contract or any substantially equivalent concept to a change order howsoever defined in any Phase 2 Construction Contract.

"Phase 2 Completion" shall have the meaning given to the term "Final Acceptance" in the Bechtel Construction Contract.

"Phase 2 Construction Account" shall have the meaning assigned to such term in the Collateral Agency Agreement.

"Phase 2 Construction Budget and Schedule" shall mean (a) a budget as set forth in Appendix F setting forth, on a monthly basis, the timing and amount of all projected payments of Phase 2 Project Costs from the Effective Date through the projected date of Phase 2 Completion and (b) a schedule setting forth the proposed engineering, procurement, construction and testing milestone schedule for the Development of Phase 2 through the projected date of Phase 2 Completion, which budget and schedule (i) (A) shall be certified by the Borrower as the best reasonable estimate of the information set forth therein as of the Effective Date, (B) shall be consistent with the requirements of the Transaction Documents with respect to Phase 2 (other than the Non-Material Project Documents) and (C) shall be in form and substance acceptable to the Lenders and (ii) may be modified from time to time in conformance with the Phase 2 Construction Contracts and the other Transaction Documents with respect to Phase 2 that are permitted hereunder.

"Phase 2 Construction Consents" shall mean the Bechtel Construction Consent, the Tank Construction Consent and the Soil Contract Consent.

"Phase 2 Construction Contractor" shall mean each of the Phase 2 EPCM Contractor, the Tank Contractor and the Soil Contractor.

"Phase 2 Construction Contracts" shall mean, collectively, the Bechtel Construction Contract, the Tank Construction Contract and the Soil Contract.

"Phase 2 EPCM Contractor" shall mean Bechtel Corporation, in its capacity as contractor under the Bechtel Construction Contract.

"Phase 2 Event of Abandonment" shall mean: (a) a formal, public announcement by the Borrower of a decision to abandon or indefinitely defer the construction or completion of Phase 2 for any reason, (b) following the Term Conversion Date, the cessation or abandonment of activities related to the construction or completion (prior to Phase 2 Completion) or maintenance of Phase 2 for more than 120 consecutive days or (c) the Borrower shall make any filing with FERC giving notice of the intent or requesting authority to abandon the construction, completion or maintenance of Phase 2 for any reason; provided, however, that any suspension or delays in construction, completion or maintenance of Phase 2 caused by a force majeure event shall not constitute an "Event of Abandonment" so long as the Borrower is diligently attempting to restart the construction, completion or maintenance of Phase 2.

"Phase 2 Loan" shall mean the portion of any Loan made with respect to Phase 2 (or as otherwise permitted herein) from the Phase 2 Allocation (which, together with any Phase 1 Loan made on the same date, shall be a "Loan").

"Phase 2 Project Costs" shall mean all costs, fees, taxes and expenses incurred by (i) the Borrower to complete Phase 2 as contemplated by (and consistent with) the Transaction

Documents with respect to Phase 2 (including the Phase 2 Construction Budget and Schedule) and Government Approvals, and (ii) Cheniere LNG, Inc. or an Affiliate thereof, as set forth on Schedule 1.01.

“Pipeline” shall mean the 16-mile long, 42-inch diameter pipeline from the Project to Johnson Bayou, Louisiana authorized by FERC pursuant to Section 7(c) of the NGA or any extension or replacement thereof or any other pipeline on the Site requiring authorization from FERC pursuant to Section 7(c) of the NGA.

“Plan” shall mean any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Pledge Agreement” shall mean the Pledge Agreements executed by any Person holding any direct equity interest in the Borrower.

“Pledgor” shall mean, at any time, any Person holding any direct equity interest in the Borrower who has entered into a Pledge Agreement.

“Post-Default Rate” shall mean 2% above the interest rate otherwise applicable to a Loan in accordance with this Agreement.

“Principal Payment Dates” shall mean (a) the earlier of (i) the date which is the six month anniversary of the Term Conversion Date and (ii) October 1, 2009, and each six month anniversary thereafter, or, if any such date is not a Business Day, the next preceding Business Day and (b) the Final Maturity Date.

“Project” shall mean, collectively, Phase 1 and Phase 2.

“Project Costs” shall mean collectively, the Phase 1 Project Costs and the Phase 2 Project Costs.

“Project Documents” shall mean each Material Project Document, Other Project Document and Non-Material Project Document.

“Project Party” shall mean each Person from time to time party to a Project Document.

“Project Revenues” shall mean, for any period, all cash revenues (without duplication) received by the Borrower during such period from: (a) the sale of Services and other services during such period, (b) all interest earned with respect to such period on Permitted Investments held in the Collateral Accounts, (c) amounts received by the Borrower from Project Parties or other Persons constituting the refund of deposits during such period, (d) the proceeds of any delay in start-up or business interruption insurance and other payments received for interruption of operations or damage to the Project during such period (other than Loss Proceeds)



and (e) all other income or revenue, however earned or received, by the Borrower during such period including any tax refunds or liquidated damages.

“Property” shall mean any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

“Prudent Industry Practices” shall mean, at a particular time, any of the practices, methods, standards and procedures that, at that time, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, including due consideration of the Project’s reliability, environmental compliance, economy, safety and expedition, and which practices, methods, standards and acts generally conform to International LNG Terminal Standards.

“Quarterly Date” shall mean the last day of March, June, September and December in each year, the first of which shall be the first such day after the date of this Agreement; provided, that if any such day is not a Business Day, then such Quarterly Date shall be the immediately preceding Business Day.

“Ready for Cool Down” shall have the meaning assigned to such term in the Phase 1 EPC Contract.

“Ready for Performance Testing” shall have the meaning assigned to such term in the Phase 1 EPC Contract.

“Regulation D”, “Regulation U” and “Regulation X” shall mean, respectively, Regulation D, Regulation U and Regulation X of the Board.

“Release” shall mean, with respect to any Hazardous Material, any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration of such Hazardous Material into the environment, including the movement of such Hazardous Material through ambient air, soil, surface water, ground water, wetlands, land or subsurface strata.

“Required Debt Service Reserve Amount” shall mean as of any date on and after the Term Conversion Date, an amount projected by the Agent equal to the amount necessary to pay the forecasted Debt Service in respect of Secured Obligations from the immediately preceding (or if the date of calculation is a Principal Payment Date, such) Principal Payment Date (or the Term Conversion Date, if there has not yet been a Principal Payment Date) through (and including) the next Principal Payment Date (assuming that no Default will occur during such period taking into account, with respect to interest, the amount of Interest Expense that would accrue on the aggregate principal amount of the Loans for the next six months).

“Required Payment” shall have the meaning assigned to such term in Section 4.06.

"Restore" shall mean, with respect to any Affected Property, to rebuild, repair, restore or replace such Affected Property. The term "Restoration" shall have a correlative meaning.

"Restricted Payment" shall mean (a) all distributions by the Borrower (in cash, Property of the Borrower or obligations) on, or other payments or distributions on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition by the Borrower of, any portion of any partnership interest in the Borrower (other than any distribution to the Pledgors of any Capacity Reservation Fee received by the Borrower pursuant to an Omnibus Agreement after the Original Funding Date) and (b) all payments (in cash, Property of the Borrower or obligations) of principal of, interest on and other amounts with respect to, or other payments on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition by the Borrower of, any Indebtedness owed to a Pledgor or any other Person party to a Pledge Agreement or any Affiliate thereof (including any Subordinated Indebtedness incurred to fund the Equity Contribution Amount). For the avoidance of doubt, payments to the Manager pursuant to Section 6.7 of the Partnership Agreement and for fees and costs pursuant to the Management Services Agreement, payments to the Operator pursuant to the O&M Agreement and income tax distributions paid in accordance with Sections 4.02(c) and 4.06 of the Collateral Agency Agreement are not Restricted Payments. Notwithstanding the foregoing, any payment made by the Borrower pursuant to the Settlement Agreement shall constitute a Restricted Payment, except to the extent that the funds utilized to effect any such payment shall have been provided by Cheniere Energy, Inc.

"Restricted Payment Date" shall have the meaning assigned to such term in Section 8.12.

"Revenue Account" shall have the meaning assigned to such term in the Collateral Agency Agreement.

"S&P" shall mean Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc.

"Second Amendment to Lease" shall mean the Second Amendment to Lease dated July 18, 2006 by and between Crain Lands, L.L.C. as lessor and the Borrower as lessee.

"Second Amendment to Mortgage" shall mean the amendment to the Mortgage dated July 21, 2006.

"Secured Obligations" shall mean, as at any date, the sum, computed without duplication, of the following: (a) the aggregate outstanding principal amount of the Loans plus all accrued interest on such amount plus (b) all other amounts from time to time payable by the Borrower under the Financing Documents plus accrued interest on such amounts plus (c) all amounts payable by the Borrower to any Lender in connection with any Permitted Swap Agreement plus (d) any and all obligations of the Borrower to the Agent, the Collateral Agent or any other Secured Party for the performance of its agreements, covenants or undertakings under or in respect of any Financing Document.

"Secured Parties" shall mean the Agent, the Collateral Agent and each of the Lenders (as a "Lender" hereunder and, if applicable, as a provider of any Permitted Swap Agreement).

"Securities Intermediary" shall have the meaning assigned to such term in the Collateral Agency Agreement.

"Security Agreement" shall mean the Security Agreement dated as of February 25, 2005 between the Borrower and the Collateral Agent.

"Security Documents" shall mean (a) the Security Agreement, (b) the Collateral Agency Agreement, (c) each Pledge Agreement, (d) the Mortgage and (e) any such other security agreement, control agreement, patent and trademark assignment, lease, mortgage, assignment and other similar agreement securing the Secured Obligations between any Person and the Collateral Agent on behalf of the Secured Parties and all financing statements, agreements or other instruments to be filed in respect of the Liens created under each such agreement.

"Semi-Annual Dates" shall mean (a) prior to the Term Conversion Date, the date which is six months following the Original Closing Date and the earlier of each six-month anniversary thereof and the Effective Date, and, following the Effective Date, the date which is six months following the Effective Date and each six-month anniversary thereof and (b) following the Term Conversion Date, each Principal Payment Date; provided, that if any such day is not a Business Day, then such Semi-Annual Date shall be the immediately preceding Business Day.

"Services" shall mean (a) the berthing of LNG Vessels at the Project, (b) the unloading and receipt of LNG from LNG Vessels, (c) storage of inventory of the Anchor Tenants or other customers, (d) the regasification of the LNG held in storage, (e) the transportation and delivery of the regasified LNG to the point of delivery as specified by the Anchor Tenant or other customers, as applicable or (f) other activities directly related to the performance by the Borrower of the foregoing.

"Settlement Agreement" shall mean the Settlement and Purchase Agreement dated as of June 14, 2001 among Cheniere Energy, Inc., Cheniere FLNG, L.P., Crest Energy L.L.C., Crest Investment Company and Freeport LNG Terminal LLC, as modified by the letter agreement dated February 27, 2003.

"Site" shall mean the Easement Properties and any leasehold interests described in the Mortgage.

"Soil Contract" shall mean the Engineer, Procure and Construct LNG soil contract by and between Remedial Construction Services, L.P. and the Borrower dated on or about July 21, 2006.

"Soil Contract Consent" shall mean the Consent and Agreement between Remedial Construction Services, L.P., the Borrower and the Collateral Agent with respect to the Soil Contract provided pursuant to Section 6.02(a).

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“Soil Contractor” shall mean Remedial Construction Services, L.P., in its capacity as soil contractor under the Soil Contract.

“Subject Lender” shall have the meaning assigned to such term in Section 11.06(c).

“Subordinated Indebtedness” shall mean any unsecured Indebtedness of the Borrower to any Person permitted by clause (e) of Section 8.16 which is subordinated to the Secured Obligations pursuant to an instrument in writing satisfactory in form and substance to the Majority Lenders or containing subordination provisions substantially in the form of Exhibit F.

“Subsidiary” shall mean, for any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or Controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person.

“Substitute Basis” shall have the meaning assigned to such term in Section 5.01(i).

“Supermajority Lenders” shall mean Lenders holding over 66<sup>2</sup>/3% of the aggregate outstanding Commitments or, if the Commitments have terminated, Lenders holding over 66<sup>2</sup>/3% of the aggregate unpaid principal amount of the Loans.

“Survey” shall mean an as-built survey of the Site which survey shall:

- (a) be a current “as-built” metes and bounds survey of the Site, including Easement Properties that benefit such Site;
- (b) be made in accordance with the “Minimum Standard Detail Requirement for ALTA/ACSM Land Title Surveys” jointly established and adopted by ALTA, ACSM and NSPS in 1999 with all measurements made in accordance with the “Minimum Angle, Distance and Closure Requirements for Survey Measurements Which Control Land Boundaries for ALTA/ACSM Land Title Surveys”;
- (c) be prepared by a surveyor acceptable to the Lenders;
- (d) contain “Optional Survey Responsibilities and Specifications” 1, 2, 3, 6, 7(a), 7(b), 7(c), 8, 9, 10, 11(b), 13, 14, 15 and 16 as specified on Table A to the “Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys”; and
- (e) contain a certification from said surveyor in form and substance satisfactory to each of the Lenders and the Title Company.

“Suspension” means the temporary cessation of activities related to the development, construction, operation and/or maintenance of the Project for 120 consecutive days.

“Tank Construction Consent” shall mean the Consent and Agreement between Zachry Construction Corporation, Diamond LNG LLC, the Borrower and the Collateral Agent with respect to the Tank Construction Contract provided pursuant to Section 6.02(a).

“Tank Construction Contract” shall mean the engineer, procure and construct LNG tank contract by and between Zachry Construction Corporation, Diamond LNG LLC and the Borrower dated on or about July 21, 2006.

“Tank Contractor” means each of Zachry Construction Corporation and Diamond LNG LLC in their capacity as tank contractor under the Tank Construction Contract.

“Tank Contractor Guarantee” shall mean the guarantee dated on or about July 21, 2006 by Mitsubishi Heavy Industries, Ltd. in favor of the Borrower.

“Tank Contractor Guarantee Consent” shall mean the Consent and Agreement between Mitsubishi Heavy Industries, Ltd., the Borrower and the Collateral Agent with respect to the Tank Contractor Guarantee provided pursuant to Section 6.02(a).

“Taxes” shall mean, with respect to any Person, all taxes, assessments, imposts, duties, governmental charges or levies imposed directly or indirectly on such Person or its income, profits or Property by any Government Authority. The term “Tax” shall have a correlative meaning.

“Term Conversion Date” shall mean the later to occur of (a) the Phase 1 Substantial Completion Date and (b) the earlier of (i) the Phase 1 Commercial Start Date under the Total TUA and (ii) such date as may be nominated by the Borrower; provided, that the Borrower shall have previously deposited (to the reasonable satisfaction of the Agent) in the Debt Service Accrual Account an amount equal to the aggregate amount of all principal, interest and fees that will become due and payable from the date of such nomination until the Phase 1 Commercial Start Date.

“Termination Date” shall mean the date on which (a) the Agent, the Collateral Agent and the Lenders shall have received final indefeasible payment in full in cash of all of the Secured Obligations and all other amounts owing to the Agent, the Collateral Agent and the Lenders under the Financing Documents, (b) the Commitments shall have terminated, expired or been reduced to zero (other than upon the occurrence of the Final Funding Date) and (c) each Permitted Swap Agreement that would constitute a Secured Obligation shall have terminated or expired.

“Title Company” shall mean Commonwealth Land Title Insurance Company.

“Title Policy” shall mean the American Land Title Association 1970 (revised 10/17/84) Form extended coverage mortgagee’s policy of title insurance or such other form as is reasonably acceptable to the Agent and the Lenders or a binding marked commitment deleting all

requirements to issue such policy dated on the Original Closing Date and to be redated the date of recording of the Mortgage, issued by the Title Company, in an amount reasonably acceptable to the Agent insuring the validity of the Mortgage and the priority of the mortgage lien in favor of the Collateral Agent for the benefit of the Secured Parties created by the Mortgage, subject only to those exceptions approved by the Agent, containing such endorsements and affirmative assurances as the Agent shall require and which are obtainable from title companies in the State of Louisiana, and including such reinsurance as the Agent may require, using forms acceptable to the Agent.

“Total Consent” shall mean the Consent and Agreement among Total LNG USA, Inc. the Borrower and the Collateral Agent with respect to the Total TUA.

“Total TUA” shall mean the Terminal Use Agreement dated as of September 2, 2004 between Total LNG USA, Inc. and the Borrower, as amended by the Amendment of LNG Terminal Use Agreement, dated as of January 24, 2005.

“Transaction Documents” shall mean each Financing Document and each Project Document.

“TUA” or “Terminal Use Agreement” shall mean any agreement between the Borrower and a counterparty for the provision of Services.

“TUA Consents” shall mean the Total Consent and the Chevron Consent.

“United States” and “U.S.” shall mean the United States of America.

“Use” shall mean, with respect to any Hazardous Material and with respect to any Person, the generation, manufacture, processing, distribution, handling, use, treatment, recycling, storage or arrangement for disposal or disposal of such Hazardous Material or transportation to or from the Property of such Person of such Hazardous Material.

“Withdrawal Liability” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

#### 1.02 Accounting Terms and Determinations.

(a) Except as otherwise expressly provided in this Agreement, all accounting terms used in this Agreement shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to the Lenders under this Agreement shall (unless otherwise disclosed to the Lenders in writing at the time of delivery in the manner described in subsection (b) below) be prepared, in accordance with generally accepted accounting principles as in effect from time to time, including applicable statements, bulletins and interpretations issued by the Financial Accounting Standards Board and applicable statements, bulletins, opinions and interpretations issued by the American Institute of Certified Public Accountants or its successor, and all calculations made for the purposes of determining compliance with this Agreement shall (except as otherwise expressly provided in this Agreement) be made by application of generally accepted accounting principles referred to

above; provided, however, that if any financial statements shall be prepared in accordance with generally accepted accounting principles that are not the same as the principles used for the preparation of the financial statements for the preceding applicable period or if any calculations shall be made for the purposes of determining compliance with this Agreement on a basis that is not the same as was used for purposes of determining compliance for the preceding applicable period, then the financial statements for the comparable prior period shall be restated and the calculations re-made as specified above to enable a comparison to be made with such prior period; provided, further, that the restatement and remaking of such calculations shall be made solely for comparison purposes and shall not result in any finding of non-compliance hereunder.

(b) The Borrower shall deliver to the Lenders at the same time as the delivery of any annual or quarterly financial statement under Section 8.01 (i) a description in reasonable detail of any material variation between the application of accounting principles employed in the preparation of such statement and the application of accounting principles employed in the preparation of the next preceding annual or quarterly financial statements and (ii) reasonable estimates of the difference between such statements arising as a consequence of any such difference.

(c) To enable the ready and consistent determination of compliance with the terms of this Agreement, the Borrower will not change the last day of its fiscal year from December 31 of each year, or the last days of the first three fiscal quarters in each of its fiscal years from March 31, June 30 and September 30 of each year, respectively.

1.03 Certain Principles of Interpretation. In this Agreement, unless otherwise indicated, the singular includes the plural and plural the singular; words importing any gender include the other gender; references to statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to "writing" include printing, typing, lithography and other means of reproducing words in a tangible visible form; the words "including," "includes" and "include" shall be deemed to be followed in each instance by the words "without limitation"; references to articles, sections (or subdivisions of sections), exhibits, annexes or schedules are to this Agreement (unless otherwise specified); references to agreements and other contractual instruments shall be deemed to include all subsequent amendments, extensions and other modifications and substitutions thereof (including by change orders where applicable) (without, however, limiting any prohibition on any such amendments, extensions and other modifications and substitutions by the terms of this Agreement); references to Persons include their respective permitted successors and assigns and, in the case of Government Authorities, Persons succeeding to their respective functions and capacities; references to "real property" shall be deemed to include "immovable property"; references to "personal property" shall be deemed to include "movable property"; and references to "easements" shall be deemed to include "servitudes".

1.04 Consent Not to be Unreasonably Delayed. In this Agreement, references to any consent to be provided by or required from the Agent, the Collateral Agent or the Lenders or requiring consent of any such party in consultation with the Independent Engineer are to be construed as including the requirement that such consent not be unreasonably withheld or delayed.

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**ARTICLE II**  
**COMMITMENTS**

2.01 Loans. Each Lender severally agrees, on the terms and conditions of this Agreement, to make loans (the "Loans") to the Borrower in Dollars from time to time during the period from and including the Original Funding Date to and including the Availability End Date in an aggregate principal amount at any one time outstanding up to but not exceeding the amount of the Commitment of such Lender as in effect from time to time; provided, that in no event shall the aggregate Loans of any Lender exceed the Commitment of such Lender; provided, further, that in no event shall the aggregate principal amount of all Loans at any one time outstanding exceed the aggregate amount of the Commitments as in effect from time to time.

2.02 Borrowings. The Borrower shall give the Agent (which shall promptly notify the Lenders) three Business Days' prior notice of each borrowing under this Agreement as provided in Section 4.05, (or, in the case of the initial borrowing hereunder, such period of time as the Agent may agree). Not later than 11:00 a.m. (New York City time) on the date specified for each borrowing under this Agreement, each Lender shall make available the amount of the Loan to be made by it on such date to the Agent, in immediately available funds, by wire transfer to the account specified on the attached Appendix C.

The amount with respect to the Loans so received by the Agent for the account of the Borrower shall, subject to the terms and conditions of this Agreement, be made available to the Borrower by remitting the same by 3:00 p.m. (New York City time) to the Collateral Agent, in immediately available funds, for deposit in the Phase 1 Construction Account or the Phase 2 Construction Account, as set forth in the applicable Notice of Borrowing.

Notwithstanding anything to the contrary herein provided, the Borrower shall only be permitted to make borrowings on the twenty-fifth day of the calendar month or, if such day is not a Business Day, the immediately preceding Business Day and there shall be no more than one borrowing of Loans in any calendar month.

2.03 Changes of Commitments.

(a) Optional Changes of Commitment. Subject to Section 2.03(b), the Borrower shall have the right at any time or from time to time (i) to terminate the Commitments and (ii) to reduce the aggregate unused amount of the Commitments; provided, that: (A) the Borrower shall give notice of each such termination or reduction as provided in Section 4.05, (B) the Borrower shall specify whether the Commitment to be reduced or terminated relates to the Phase 1 Allocation or the Phase 2 Allocation, (C) each reduction of Commitments shall be in an aggregate amount at least equal to \$1,000,000 (or, if less, the full amount of Commitments outstanding), and if greater, in integral multiples of \$500,000 in excess thereof and (D) either (I) in the case of termination or reduction of Commitments relating to the Phase 1 Allocation, the Phase 1 Substantial Completion Date has occurred or, in the case of termination or reduction of Commitments relating to the Phase 2 Allocation, Phase 2 Completion has occurred, or (II) the Borrower and the Agent shall have received written concurrence from the Independent Engineer that the remaining aggregate unused amount of the Commitments of Phase 1 Allocation or



Phase 2 Allocation, as the case may be, after such termination or reduction, together with the Equity Contribution Amount (and other funds committed in a form satisfactory to the Majority Lenders) is sufficient, in the reasonable judgment of the Independent Engineer, to achieve Phase 1 Substantial Completion on or prior to the Guaranteed Substantial Completion Date or to achieve Phase 2 Completion in accordance with the Phase 2 Construction Budget and Schedule, as applicable or (III) the termination or reduction of Commitments is in connection with a refinancing of the entire Facility.

(b) Mandatory Changes of Commitments. The aggregate amount of the Commitments shall be automatically reduced to zero (i) at the close of business on the Availability End Date or (ii) upon the occurrence of an Event of Default described in Section 9.01(f) as set forth in the last paragraph of Section 9.01.

(c) No Reinstatement. The Commitments, once terminated or reduced, may not be reinstated.

#### 2.04 Fees.

(a) Commitment Fee. The Borrower shall pay to the Agent for the account of each Lender a commitment fee (the "Commitment Fee") on the daily average unused amount of such Lender's Commitment at a rate *per annum* equal to 0.50%, for the period from and including the Original Closing Date to but not including the dates the Commitments are reduced to zero pursuant to Section 2.03. The accrued Commitment Fee shall be payable in arrears on each Semi-Annual Date and on the date the Commitments are reduced to zero pursuant to Section 2.03.

(b) Administrative Fees. The Borrower shall pay to the Agent, for its own account, a non-refundable agency fee (the "Administrative Fee") and to the Agent for the account of the Collateral Agent, a non-refundable agency fee (the "Collateral Agency Fee") for each year in the amounts set forth in the Agency Fee Letter and the Collateral Agent Fee Letter, respectively. The Administrative Fee and the Collateral Agency Fee then payable were paid on the Original Closing Date and such fees shall be payable on each annual anniversary of the Original Closing Date until the Termination Date.

(c) Other Fees. The Borrower shall pay to the Agent (for the account of the Person to whom such payment is owed) all fees payable in the amounts and at times separately agreed upon in each other Fee Letter between the Borrower and the respective parties thereto.

2.05 Lending Offices. The Loans made by each Lender shall be made and maintained at such Lender's Applicable Lending Office.

2.06 Several Obligations; Remedies Independent. The failure of any Lender to make any Loan to be made by it on the date specified therefor shall not relieve any other Lender of its obligation to make its Loan on such date, but neither any Lender nor the Agent shall be responsible for the failure of any other Lender to make a Loan to be made by such other Lender. The amounts payable by the Borrower at any time under this Agreement, or any other Financing Document to each Lender shall be a separate and independent debt and, subject to the Collateral Agency Agreement, each Lender shall be entitled to protect and enforce its rights arising out of

this Agreement, and it shall not be necessary for any other Lender or the Agent to consent to, or be joined as an additional party in, any proceedings for such purposes.

**2.07 Maintenance of Records.**

(a) Maintenance of Records by the Agent. The Agent shall maintain records in which it shall record (i) the amount of each Loan made hereunder and each Interest Period therefor, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, (iii) the amount of any sum received by the Agent hereunder for the account of the Lenders and each Lender's share thereof and (iv) a copy of each assignment and acceptance delivered to it pursuant to Section 11.06(b). Upon reasonable notice to the Agent, the Borrower and each Lender shall have the right to inspect such records from time to time during normal business hours.

(b) Effect of Entries. Absent manifest error, the entries made in the records maintained pursuant to paragraph (a) of this Section 2.07 shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein; provided, that the failure of the Agent to maintain such records or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

**ARTICLE III**

**PAYMENTS OF PRINCIPAL AND INTEREST**

3.01 Repayment of Loans. The Borrower hereby agrees to pay to the Agent for the account of each Lender the principal of such Lender's Loans outstanding on each Principal Payment Date in accordance with the amortization schedule attached as Appendix B to this Agreement. All unpaid principal of each Loan shall be due and payable in full in a single installment on the Final Maturity Date. Any amounts repaid shall not be reborrowed.

3.02 Interest. The Borrower hereby agrees to pay to the Agent for account of each Lender interest on the unpaid principal amount of each Loan made by such Lender for the period from and including the date of such Loan to but excluding the date such Loan shall be paid in full at the rate equal to the LIBO Rate for such Loan for the applicable Interest Periods plus the Applicable Margin.

Notwithstanding the foregoing, the Borrower hereby agrees that upon the occurrence of any Event of Default, all then-outstanding Loans shall bear interest at a rate *per annum* equal to the Post-Default Rate for the period from and including the date of the occurrence of such Event of Default to but excluding the date such Event of Default is remedied or waived.

Accrued interest on each Loan shall be payable in arrears (a) on each Semi-Annual Date and (b) upon the payment or prepayment of such Loan (but only on the principal amount so paid or prepaid), except that interest payable at the Post-Default Rate shall be payable from time to time on demand (or, if no demand is made during any month, on the last day of such month). Promptly after the determination of any interest rate provided for in this

Agreement or any change in any such rate, the Agent shall give notice of such interest rate to the Lenders to which such interest is payable and to the Borrower.

3.03 Optional Prepayments of Loans. Subject to Section 4.04, the Borrower shall have the right to prepay Loans at any time; provided, that the Borrower shall give the Agent notice of each such prepayment as provided in Section 4.05 and, upon the date specified in any such notice of prepayment, the amount to be prepaid shall become due and payable. Any prepayment by the Borrower pursuant to this Section 3.03 shall be made simultaneously with, and is conditioned upon, (a) the prepayment under any Permitted Swap Agreement (if then in effect) to the extent the aggregate notional amount under all such Permitted Swap Agreements exceeds the aggregate amount of Loans outstanding after giving effect to the prepayment contemplated by this Section 3.03 and (b) the payment by the Borrower of any costs, expenses or other amounts incurred by any Lender in connection with such prepayment (including amounts payable by the Borrower under any such Permitted Swap Agreement with such Lender as a result of such early termination effected pursuant to clause (a) above and any breakage costs due in accordance with Section 5.03 hereof). Any prepayment by the Borrower in this Section 3.03 shall be applied *pro rata* to the remaining scheduled principal repayment amounts of the Loans.

3.04 Mandatory Prepayments. In addition to mandatory repayments of principal of Loans as set forth in Section 3.01 above, the Borrower shall make the following mandatory payments (as prepayments to be effected in each case in the manner specified in paragraph (e) below):

(a) Event of Loss. The Borrower shall prepay the Loans in an amount equal to 100% of the Net Available Amount not otherwise applied in accordance with Section 8.05(b) or Section 8.05(c), as applicable.

(b) Asset Sales. The Borrower shall prepay the Loans in an aggregate amount equal to 100% of the net proceeds resulting from the disposition of any of its physical assets (other than dispositions of assets permitted pursuant to the second sentence of Section 8.11(a)) to the extent the Borrower has not either (i) reinvested such proceeds within 60 days to acquire substitute or replacement assets of equal or greater value than the assets disposed or (ii) reduced the Commitments.

(c) Tax Refunds. Following the Term Conversion Date, the Borrower shall prepay the Loans in an aggregate amount equal to 100% of any tax refunds pertaining to taxes disbursed as part of the Project Costs.

(d) Balance of Phase 2 Construction Account. The Borrower shall prepay the Loans in an amount equal to 100% of the balance standing to the credit of each of the Phase 2 Construction Account, Phase 2 Construction Payment Subaccount, Phase 2 Punchlist Retention Subaccount and Bechtel Construction Payment Subaccount in the event that Phase 2 Completion has not occurred by April 1, 2011.

(e) Application. Prepayments described in this Section 3.04 shall be applied to the Loans in the inverse order of the maturities of such Loans.

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ARTICLE IV

PAYMENTS; PRO RATA TREATMENT; COMPUTATIONS; ETC.

4.01 Payments.

(a) Except to the extent otherwise provided in this Agreement, all payments of principal, interest, fees and other amounts to be made by the Borrower under this Agreement and, except to the extent otherwise provided in any of the other Financing Documents, all payments to be made by the Borrower under any such other Financing Document, shall be made in Dollars, in immediately available funds, without deduction, set-off or counterclaim, to the Agent by wire transfer to the account specified on the attached Appendix C. No payment shall be made later than 11:00 a.m. (New York time) on the date on which such payment shall become due (each such payment made after such time on such due date shall be deemed to have been made on the next succeeding Business Day).

(b) The Borrower shall, at the time of making each payment under this Agreement for account of any Lender, specify to the Agent (which shall so notify the intended recipient or recipients) the Loans or other amounts payable by the Borrower under this Agreement to which such payment is to be applied (and in the event that it fails to so specify, or if an Event of Default has occurred and is continuing, the Agent may distribute such payment to the Lenders for application in such manner as it or the Majority Lenders, subject to Section 4.02, may determine to be appropriate).

(c) Each payment received by the Agent under this Agreement for account of any Lender shall be paid by the Agent promptly to such Lender, in immediately available funds, for account of such Lender's Applicable Lending Office for the Loan or other obligation in respect of which such payment is made.

(d) If the due date of any payment under this Agreement would otherwise fall on a day which is not a Business Day such date shall be extended to the next succeeding Business Day (except in the case where such payment due date is a Semi-Annual Date or Principal Payment Date, in which case the terms set forth in Section 1.01 for "Semi-Annual Date" or "Principal Payment Date", as the case may be, are applicable) and interest shall be payable for any principal so extended for the period of such extension.

4.02 Pro Rata Treatment. Except to the extent otherwise provided in this Agreement: (a) each borrowing of Loans under Section 2.01 shall be made from the Lenders, each payment of commitment fee under Section 2.04 shall be made for account of the Lenders, and each termination or reduction of the amount of the Commitments under Section 2.03 shall be applied to the respective Commitments of the Lenders *pro rata* according to the amounts of their respective Commitments, (b) each payment or prepayment of principal of Loans by the Borrower shall be made for account of the Lenders *pro rata* in accordance with the respective unpaid principal amounts of the Loans held by them; provided, that if immediately prior to giving effect to any such payment in respect of any Loan, the outstanding principal amount of the Loans shall not be held by the Lenders *pro rata* in accordance with their respective Commitments in effect at the time such Loans were made (by reason of a failure of a Lender to make a Loan in the

circumstances described in the last paragraph of [Section 11.04](#)), then such payment shall be applied to the Loans in such manner as shall result, as nearly as is practicable, in the outstanding principal amount of the Loans being held by the Lenders *pro rata* in accordance with their respective Commitments following such payment and (c) each payment of interest on the Loans by the Borrower shall be made for account of the Lenders *pro rata* in accordance with the amounts of interest on such Loans then due and payable to the respective Lenders.

4.03 Computations. Interest and fees on Loans and on other obligations of the Borrower or the Lenders shall be computed on the basis of a year of 360 days and actual days elapsed (including the first day but excluding the last day) occurring in the period for which payable.

4.04 Minimum Amounts. Except for (a) mandatory prepayments made pursuant to [Section 3.04](#) and (b) prepayments made pursuant to [Section 5.03](#), each borrowing and partial prepayment of principal of Loans shall be in an amount equal to \$2,000,000 or any higher multiple of \$100,000 (or, if less, the full amount of such Loans outstanding) (borrowings or prepayments of Loans having different Interest Periods at the same time being deemed separate borrowings and prepayments for purposes of the foregoing, one for each Interest Period).

4.05 Certain Notices. Notices by the Borrower to the Agent of terminations or reductions of the Commitments, of borrowings and optional prepayments of Loans shall be irrevocable and shall be effective only if received by the Agent not later than 11:00 a.m. (New York City time) on the number of Business Days prior to the date of the relevant termination, reduction, borrowing or prepayment or the first day of such Interest Period specified below:

<u>Notice</u>	<u>Number of Business Days Prior</u>
Termination or reduction of the Commitments	5
Borrowing of Loans	3
Prepayment of Loans	5

Each such notice of termination or reduction shall specify the amount of the Commitments to be terminated or reduced and submission of such notice shall be subject to the satisfaction of the conditions set forth in [Section 2.03](#). Each such notice of borrowing shall be in the form of [Exhibit A](#) and shall be subject to the satisfaction of the conditions set forth in [Article VI](#) (each, a “[Notice of Borrowing](#)”). Each such notice of optional prepayment shall specify the amount (subject to [Section 4.04](#)) of each Loan prepaid and the date of such optional prepayment (which shall be a Business Day). The Agent shall promptly notify the Lenders of the contents of each such notice.

4.06 Non-Receipt of Funds by the Agent. Unless the Agent shall have been notified by a Lender or the Borrower (the "Payor") prior to the date on which the Payor is to make payment to the Agent of (in the case of a Lender) the proceeds of a Loan to be made by such Lender or (in the case of the Borrower) a payment to the Agent for account of one or more of the Lenders (any such payment, a "Required Payment"), which notice shall be effective upon receipt, that the Payor does not intend to make the Required Payment to the Agent, the Agent may assume that the Required Payment has been made and may, in reliance upon such assumption, (but shall not be required to) make the amount of such payment available to the intended recipient (or recipients) on such date and, if the Payor has not in fact made the Required Payment to the Agent, the recipient (or recipients) of such payment shall, on demand, repay to the Agent the amount so made available together with interest on such amount in respect of each day during the period commencing on the date (the "Advance Date") such amount was so made available by the Agent until the date the Agent recovers such amount at a rate *per annum* equal to the Federal Funds Rate for such day and, if such recipient (or recipients) shall fail promptly to make such payment, the Agent shall be entitled to recover such amount, on demand, from the Payor, together with interest as provided above; provided, that if neither the recipient (or recipients) nor the Payor shall return the Required Payment to the Agent within three Business Days of the Advance Date, then, retroactively to the Advance Date, the Payor and the recipient (or recipients) shall each be obligated to pay interest on the Required Payment as follows:

(a) if the Required Payment shall represent a payment to be made by the Borrower to the Lenders, the Borrower and the recipient (or recipients) shall each be obligated retroactively to the Advance Date to pay interest in respect of the Required Payment at the Post-Default Rate (and, in case the recipient (or recipients) shall return the Required Payment to the Agent, without limiting the obligation of the Borrower under Section 3.02 to pay interest to such recipient (or recipients) at the Post-Default Rate in respect of the Required Payment), and

(b) if the Required Payment shall represent proceeds of a Loan to be made by the Lenders to the Borrower, the Payor and the Borrower shall each be obligated retroactively to the Advance Date to pay interest in respect of the Required Payment at the rate of interest provided for such Required Payment pursuant to Section 3.02 (and, in case the Borrower shall return the Required Payment to the Agent, without limiting any claim the Borrower may have against the Payor in respect of the Required Payment, subject to Section 11.13).

#### 4.07 Sharing of Payments; Etc.

(a) The Borrower agrees that, in addition to (and without limitation of) any right of set-off, banker's lien or counterclaim a Lender may otherwise have, each Lender shall be entitled, at its option, to offset balances held by it for account of the Borrower at any of its offices, in Dollars or in any other currency, against any principal of or interest on any of such Lender's Loans or any other amount payable to such Lender under this Agreement, that is not paid when due (regardless of whether such balances are then due to the Borrower), in which case it shall promptly notify the Borrower and the Agent of such action; provided, that such Lender's failure to give such notice shall not affect the validity of such action.

(b) If any Lender shall obtain from the Borrower payment of any principal of or interest on any Loan owing to it or payment of any other amount under this Agreement held by it or any other Financing Document or through the exercise of any right of set-off, banker's lien or counterclaim or similar right or otherwise (other than from the Agent as provided in this Agreement), and, as a result of such payment, such Lender shall have received a greater percentage of the principal of or interest on the Loans or such other amounts then due hereunder by the Borrower to such Lender than the percentage received by any other Lender, it shall promptly purchase from such other Lenders participations in (or, if and to the extent specified by such Lender, direct interests in) the Loans or such other amounts, respectively, owing to such other Lenders (or in interest due on such Loans or other amounts, as the case may be) in such amounts, and make such other adjustments from time to time as shall be equitable, with the effect that all the Lenders shall share the benefit of such excess payment (net of any expenses which may be incurred by such Lender in obtaining or preserving such excess payment) *pro rata* in accordance with the unpaid principal of or interest on the Loans or such other amounts, respectively, owing to each of the Lenders; provided, that if at the time of such payment the outstanding principal amount of the Loans shall not be held by the Lenders, *pro rata* in accordance with their respective Commitments in effect at the time such Loans were made (by reason of a failure of a Lender to make a Loan hereunder in the circumstances described in the last paragraph of Section 11.04), then such purchases of participations or direct interests shall be made in such manner as will result, as nearly as is practicable, in the outstanding principal amount of the Loans being held by the Lenders, *pro rata* according to the amounts of such Commitments. To such end all the Lenders shall make appropriate adjustments among themselves (by the resale of participations sold or otherwise) if such payment is rescinded or must otherwise be restored.

(c) The Borrower agrees that any Lender so purchasing such a participation (or direct interest) may exercise all rights of set-off, banker's liens, counterclaims or similar rights with respect to such participation as fully as if such Lender were a direct holder of Loans or other amounts (as the case may be) owing to such Lender in the amount of such participation.

(d) Nothing contained in this Agreement shall require any Lender to exercise any such right or shall affect the right of any Lender to exercise, and retain the benefits of exercising, any such right with respect to any other indebtedness or obligation of the Borrower. If, under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a set-off to which this Section 4.07 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this Section 4.07 to share in the benefits of any recovery on such secured claim.

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ARTICLE V

YIELD PROTECTION; ETC.

5.01 Alternate Rate of Interest. If prior to the commencement of any Interest Period with respect to a making (for the purposes of this Section 5.01, a “borrowing”) of Loans:

(a) the Agent reasonably determines that adequate and reasonable means do not exist for ascertaining the LIBO Rate for such Interest Period; or

(b) the Agent is advised by the Majority Lenders that such Lenders have reasonably determined that the LIBO Rate for that Interest Period will not adequately and fairly reflect the cost to those Lenders of making or maintaining their Loans included in such borrowing for such Interest Period;

then the Agent will give notice of those circumstances to the Borrower and the Lenders by telephone or telecopy as promptly as practicable and:

(i) during the 15-day period next succeeding the date of any such notice (the “Negotiation Period”), the Agent and the Borrower will negotiate in good faith for the purpose of agreeing upon an alternate, mutually acceptable basis (the “Substitute Basis”) for determining the rate of interest to be applicable to such Loans or amounts for such Interest Period;

(ii) if at the expiry of the Negotiation Period, the Agent and the Borrower have agreed upon a Substitute Basis and the Agent has received confirmation from its counsel that such Substitute Basis has received all necessary Government Approvals and consents, such Substitute Basis shall be retroactive to, and take effect from, the beginning of such Interest Period;

(iii) if at the expiry of the Negotiation Period, a Substitute Basis shall not have been agreed upon as aforesaid or the Agent shall not have received the above-mentioned confirmation as to requisite governmental approvals or consents, each Lender shall notify the Borrower of the cost to such Lender (as determined by it in good faith) of funding and maintaining the Loan for such Interest Period; and the interest payable to such Lender on such Loan or amount for such Interest Period shall be a rate per annum equal to the Applicable Margin above the cost to such Lender of funding and maintaining such Loan or amount for such Interest Period as so notified by such Lender (or, as to any principal of such Loan or, to the extent permitted by applicable law, other amount payable to such Lender on or in respect of such Loan that is then past due, 2% plus the Applicable Margin above such cost); and

(iv) the procedures specified in clauses (i), (ii) and (iii) above shall apply to each Interest Period for such Loans or amounts succeeding the first Interest Period to which they were applied unless and until the Agent shall determine that the conditions referred to in clause (a) or (b) above no longer exist and so notifies the Borrower, whereupon interest on such Loans or amounts shall again be determined in accordance



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with the provisions of Section 3.02 commencing on the first day of the Interest Period for such Loans or amounts next succeeding the date of such notice.

5.02 Increased Costs.

(a) If any Change in Law:

(i) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the LIBO Rate); and/or

(ii) imposes on any Lender or the London interbank market any other condition materially affecting this Agreement or Loans made by such Lender;

and the result of any of the foregoing is to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender under any Financing Document, in each case by an amount that such Lender reasonably deems to be material, then the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender for the additional costs incurred or reduction suffered (except to the extent the Borrower is excused from payment pursuant to Section 5.05).

(b) If any Lender reasonably determines that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or (without duplication) on the capital of its holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or its holding company could have achieved but for that Change in Law (taking into consideration such Lender's and its holding company's policies with respect to capital adequacy), in each case by an amount that such Lender reasonably deems to be material, then from time to time the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or (without duplication) its holding company for any such reduction suffered (except to the extent the Borrower is excused from payment pursuant to Section 5.05).

(c) To claim any amount under this Section 5.02, a Lender must deliver to the Borrower a certificate setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, under Section 5.02(a) or Section 5.02(b). The Borrower shall pay such Lender the amount due and payable and set forth on any such certificate within 30 days after its receipt.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 5.02 shall not constitute a waiver of such Lender's right to demand that compensation; provided, that the Borrower shall not be required to compensate a Lender pursuant to this Section 5.02 for any increased costs or reductions incurred more than 180 days prior to the date on which such Lender notifies the Borrower of the Change in Law giving rise to those increased costs or reductions and of such Lender's intention to claim compensation for those circumstances; provided, further, that if the Change in Law giving rise to those increased

costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include that period of retroactive effect.

**5.03 Break Funding Payments.** In the event of (a) the payment of any principal of any Loan other than on the last day of the Interest Period for that Loan (including under Section 3.04 or as a result of an Event of Default), (b) the failure to borrow on the date specified in any borrowing notice or failure to repay or prepay any Loan on any scheduled repayment or prepayment date or (c) the assignment of any Loan other than on the last day of its Interest Period as a result of a request by the Borrower pursuant to Section 5.05 or Section 11.06, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to any such event. Such loss, cost or expense to any Lender shall be deemed to include an amount reasonably determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period for such Loan (or, in the case of a failure to borrow, for the period that would have been the Interest Period for such Loan) over (ii) the amount of interest that would accrue on such principal amount for that period at the interest rate that such Lender would bid were it to bid, at the commencement of that period, for Dollar deposits of a comparable amount and period from other banks in the eurodollar market. To claim any amount under this Section 5.03, the Lender must deliver to the Borrower a certificate setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section 5.03 (including calculations, in reasonable detail, showing how such Lender computed such amount or amounts). The Borrower shall pay such Lender the amount due and payable and set forth on any such certificate within 30 days after its receipt.

**5.04 Taxes.**

(a) Any and all payments by or on account of any Secured Obligation shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided, that if the Borrower is required to deduct any Indemnified Taxes or Other Taxes from those payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 5.04) each Person entitled thereto receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make those deductions and (iii) the Borrower shall pay the full amount deducted to the relevant Government Authority in accordance with any applicable Government Rule.

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Government Authority in accordance with any applicable Government Rule.

(c) The Borrower shall indemnify the Agent, the Collateral Agent and each Lender, within 30 days after written demand, for the full amount of any Indemnified Taxes or Other Taxes paid by such Person (other than the Borrower) on or with respect to any payment by or on account of any Secured Obligation (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 5.04) and any penalties, interest and reasonable expenses arising from, or with respect to, those Indemnified Taxes or Other Taxes, whether or not those Indemnified Taxes or Other Taxes were correctly or legally

imposed or asserted by the relevant Government Authority. To claim any amount under this Section 5.04(c), the Agent, Collateral Agent or a Lender must deliver to the Borrower a certificate setting forth in reasonable detail as to the amount of such payment or liability. If the Agent, Collateral Agent or a Lender receives a final refund of an Indemnified Tax or Other Tax from the Government Authority to which any Indemnified Tax or Other Tax was paid, and such refund is clearly identifiable and attributable, in such Person's sole discretion, to any Indemnified Taxes or Other Taxes in respect of this Agreement that the Borrower has either paid on behalf of such Person or for which such Person was indemnified, then such Person shall pay over such refund to the Borrower as soon as reasonably practicable following receipt thereof.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Government Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Government Authority evidencing such payment, a copy of the return reporting that payment or other evidence of such payment reasonably satisfactory to the Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under any applicable Government Rule or treaty between the United States and the jurisdiction in which the Borrower is located, with respect to payments of any Secured Obligations will deliver to the Borrower (with a copy to the Agent), at the time or times prescribed by applicable Government Rule, such properly completed and executed documentation prescribed by applicable Government Rule and reasonably requested by the Borrower in writing as will permit those payments to be made without withholding or at a reduced rate.

(f) Without limiting the generality of the foregoing, each Foreign Lender shall deliver to the Borrower and the Agent on the Effective Date or not later than ten Business Days following the effectiveness of any assignment pursuant to Section 11.06 by which it becomes a party to this Agreement (i) two duly completed copies of United States Internal Revenue Service Form W-8ECI, W-8BEN, W-8EXP or W-8IMY or successor applicable form, as the case may be, certifying in each case that such Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income Taxes and (ii) any other governmental forms which are necessary or required under an applicable Tax treaty or otherwise by law to eliminate any withholding Tax, which have been reasonably requested in writing by the Borrower. Each Lender which delivers to the Borrower and the Agent a Form W-8ECI, W-8BEN, W-8EXP or W-8IMY pursuant to the preceding sentence further undertakes to deliver to the Borrower and the Agent (A) promptly following written notice from the Borrower two further copies of such form on or before the date that any such form expires or becomes obsolete and such amendments thereto or extensions or renewals thereof as may reasonably be requested by the Borrower or the Agent and (B) without notice from the Borrower promptly after the occurrence of any event relating solely to the status of the Foreign Lender requiring a change in the most recent form so delivered by it, in each case certifying that such Lender is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income Taxes, unless an event (including any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would otherwise be required which renders all such forms inapplicable or which would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender advises the Borrower and the Agent

that it is not capable of receiving payments without any deduction or withholding of United States federal income Taxes and in any such event, the Borrower shall withhold Taxes at the rate and in the manner required by the laws of the United States with respect to payments made to such a Lender and shall be required to pay any additional amounts or indemnify such a Lender pursuant to this Section 5.04 with respect to such withheld Taxes.

**5.05 Mitigation of Obligations; Replacement of Lenders**

(a) If any Lender requests compensation under Section 5.02 or if the Borrower is required to pay any additional amount to any Lender or any Government Authority for the account of any Lender pursuant to Section 5.04, then such Lender, if requested by the Borrower, will use reasonable efforts to designate a different lending office for funding or booking its Loans or to assign its rights and obligations under the Financing Documents to another of its offices, branches or Affiliates, if such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.02 or 5.04, as the case may be, in the future and (ii) in the Lender's sole discretion would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment unless it shall withdraw its request in a timely manner that the Lender designate a different lending office.

(b) If any Lender requests compensation under Section 5.02, if the Borrower is required to pay any additional amount to any Lender or any Government Authority for the account of any Lender pursuant to Section 5.04, if Section 5.06 becomes applicable to any Lender or if any Lender defaults in its obligation to fund Loans, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions, including required consents, contained in Section 11.06), all its interests, rights and obligations under this Agreement to an assignee that assumes those obligations (which assignee may be another Lender); provided, that (i) such Lender receives payment of an amount equal to the Secured Obligations owing to it from the assignee (to the extent of the outstanding principal, accrued interest and fees included in those Secured Obligations) or the Borrower (in the case of all other amounts so included) and (ii) in the case of any such assignment resulting from a claim for compensation under Section 5.02 or payments required to be made pursuant to Section 5.04, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, as a result of a waiver by such Lender of its right under Section 5.02, 5.04 or 5.06, as applicable, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply. If a Lender refuses to be replaced pursuant to this Section 5.05 and Section 11.06(b), the Borrower shall not be obligated to pay such Lender any of the compensation referred to in this Section 5.05 or any additional amounts incurred or accrued under this Article V from and after the date in excess of those that would have been incurred for such replacement.

**5.06 Illegality.** In the event that it becomes unlawful or, by reason of a Change in Law, any Lender is unable to honor its obligation to make or maintain Loans, then such Lender will promptly notify the Borrower of such event (with a copy to the Agent) and such Lender's obligation to make Loans shall be suspended until such time as such Lender may again

make and maintain Loans. Each Lender agrees to use reasonable efforts, including using reasonable efforts to designate a different lending office for funding or booking its Loans or to assign its rights and obligations under the Financing Documents to another of its offices, branches or Affiliates, if such designation or assignment (a) would eliminate or avoid such illegality and (b) in the Lender's sole discretion, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment; provided, that prior to incurring any such costs or expenses such Lender provides written notice to the Borrower setting forth in reasonable detail a good faith estimate of such costs and expenses.

## ARTICLE VI

### CONDITIONS PRECEDENT

6.01 Conditions Precedent to Effective Date. This amendment and restatement shall become effective on the date on which this Agreement is executed and delivered by the Borrower, the Agent, the Collateral Agent and the Lenders party hereto and the Agent shall have notified the Borrower that it has received each of the agreements and other documents set forth below and that each of the conditions set forth below have been satisfied, each of which shall be (x) in form and substance satisfactory to the Lenders in their sole discretion and (y) if applicable, in full force and effect (unless, in each case, waived by each Lender) (the "Effective Date");

(a) Financing Documents. Each Financing Document (other than the Permitted Swap Agreements, the Phase 2 Construction Consents and the Tank Contractor Guarantee Consent), the Confirmation and the Second Amendment to Mortgage, duly executed and delivered by the parties thereto.

(b) Project Documents. (i) An original or certified copy of each Material Project Document (including each Phase 2 Construction Contract and the Tank Contractor Guarantee), each Other Project Document and each Phase 1 Change Order issued pursuant to the Phase 1 EPC Contract, each duly executed and delivered by the intended parties thereto, unless such Material Project Document, Other Project Document or Phase 1 Change Order was previously delivered to the Agent pursuant to the Original Credit Agreement, and (ii) a certificate of an Authorized Officer of the Borrower certifying that (A) all conditions precedent to the obligations of each Project Party under each Material Project Document shall have been satisfied or waived except for such conditions precedent which need not and cannot be satisfied until a later stage of Development and no default shall exist thereunder and (B) there has been no amendment, supplement, modification or variation of such Material Project Document or Other Project Document previously delivered to the Agent pursuant to the Original Credit Agreement, other than as notified to the Agent and each of such Material Project Documents and Other Project Documents so previously delivered to the Agent remains in full force and effect.

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(c) Corporate Documents. The following documents, each certified as indicated below:

(i) in the case of each of the Borrower, each Pledgor and the Operator, a copy of such Person's articles of incorporation, certificate of limited partnership or certificate of formation (as the case may be), together with any amendments thereto, certified by the Secretary of State of the Person's state of organization as of a recent date;

(ii) in the case of each of the Borrower, each Pledgor and each other Material Project Party (other than Mitsubishi Heavy Industries, Ltd. and each counterparty (other than the Borrower) to a Lease Agreement or Phase 2 Construction Contract), a copy of a certificate as to the good standing of and payment of franchise taxes by such Person from the Secretary of State of such Person's jurisdiction of organization dated as of a recent date; and

(iii) a certificate of the Borrower, each Pledgor, the Manager and the Operator executed by an Authorized Officer of such Person certifying:

(A) that (I) in the case of the Borrower and the Operator, attached to such certificate is a true and complete copy of the limited partnership agreement of such Person, as in effect on the date of such certificate and (II) in the case of each Pledgor and the Manager, attached to such Person's certificate is a true and complete copy of the by-laws, operating agreement or other organizational documents of such Person, as in effect on the date of such certificate,

(B) that attached to such certificate is a true and complete copy of resolutions duly adopted by the authorized governing body of such Person, authorizing the execution, delivery and performance of such of the Transaction Documents to which such Person is or is intended to be a party (including, in the case of each Pledgor, authorizing such Pledgor's commitment to fund, directly or indirectly, the Equity Contribution Amount), and that such resolutions have not been modified, rescinded or amended and are in full force and effect,

(C) that the articles of incorporation, certificate of limited partnership or certificate of formation (as the case may be) of such Person has not been amended since the date of the certification furnished pursuant to paragraph (c)(i) or (c)(ii) of this Section 6.01, and

(D) as to the incumbency and specimen signature of each officer, manager, member or partner (as applicable) of such Person executing the Transaction Documents (other than Non-Material Project Documents and Phase 2 Construction Contracts) to which such Person is or is intended to be a party and each other document to be delivered by such Person from time to time pursuant to the terms thereof (and the

Agent and each Lender may conclusively rely on such incumbency certification until it receives notice in writing from such Person);

(d) Project Development.

(i) Construction Budgets and Schedules. The Phase 1 Construction Budget and Schedule and Phase 2 Construction Budget and Schedule, each certified as such by an Authorized Officer of the Borrower and in form and substance satisfactory to the Independent Engineer.

(ii) Base Case Forecast. The Base Case Forecast certified as such by an Authorized Officer of the Borrower.

(iii) Report of Independent Engineer. A due diligence report of the Independent Engineer (1) favorably reviewing (A) the technical and economic feasibility of Phase 2 and the environmental compliance and environmental risks relating to Phase 2, (B) the reasonableness and consistency of the Phase 2 Construction Budget and Schedule, the Phase 2 Construction Contracts and the assumptions related to the costs and operating performance of Phase 2, (C) the reasonableness of the assumptions underlying the Base Case Forecast (taking into account, among other things, the TUAs with Anchor Tenants), (D) the potential implications to Phase 1 of building Phase 2 and (E) such other matters as the Agent may reasonably request, and (2) favorably reviewing the status of the construction of Phase 1.

(e) Financial Statements. Certified copies of (i) the most recent unaudited financial statements of the Borrower, the Pledgors and the Operator and (ii) to the extent available to the Borrower, the most recent audited financial statements of the other Material Project Parties (other than each counterparty (other than the Borrower) to a Lease Agreement or a Phase 2 Construction Contract).

(f) Payment of Fees. Payment by or on behalf of the Borrower of such fees and expenses payable by the Borrower pursuant to Section 2.04 (to the extent such fees are due and payable as of the Effective Date), Section 11.03, the Fee Letters and any other fees and expenses, if any, that the Borrower and the Agent shall have agreed shall be due and payable on the Effective Date.

(g) Preliminary Insurance Report. A preliminary report from the Insurance Advisor (i) confirming that the insurance policies provided as of the Effective Date in respect of Phase 1 pursuant to and in accordance with Section 8.05 are typical for undertakings similar to the Project, are in full force and effect, the premiums due thereon have been paid and that such policies otherwise conform with the requirements specified in the Financing Documents and (ii) setting forth the requirements in respect of Phase 2.

(h) Filings, Registrations and Recordings: Fees and Taxes.

(i) Filings, Registrations and Recordings. UCC-1 and UCC-3 financing statements under the Uniform Commercial Code with respect to the

Borrower and each Pledgor, authorized by such party, in the relevant jurisdictions listed on the attached Schedule 6.01(i) and any other jurisdiction in which financing statements are necessary or, in the opinion of the Agent, desirable to perfect the Liens created under the Security Documents and copies of Uniform Commercial Code search reports and tax lien, judgment and litigation search reports with respect to the Borrower and each Pledgor, and all other instruments to be recorded or filed or delivered in connection with the Security Documents (including with respect to the letters of credit or any other credit support instruments issued in support of the Project Documents as of the Original Closing Date (if any), acknowledgments required to perfect such Liens and possession (if required for perfection) of such instruments).

(ii) Fees and Taxes. Evidence that all filing, recordation, subscription and inscription fees and all recording and other similar fees, and all recording, stamp and other taxes and other expenses related to such filings, registrations and recordings necessary for the consummation of the transactions contemplated by this Agreement and the other Financing Documents and Project Documents have been paid in full by or on behalf of the Borrower.

(i) Collateral Accounts. Evidence of the establishment of the Collateral Accounts.

(j) "Know Your Customer" and Anti-Money Laundering Rules and Regulations. Documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, shall have been received by the Agent and shall include evidence consisting of the following information (i) the Borrower's full legal name, (ii) the Borrower's address and mailing address, (iii) the Borrower's W-9 forms including its tax identification number, (iv) the Borrower's certificate of formation, (v) a list of directors of the Borrower or list of such persons controlling the Borrower, (vi) a list of the partners of the Borrower and (vii) an executed resolution or other such documentation stating who is authorized to open an account for the Borrower, in each case in form and substance reasonably satisfactory to the Agent, and such other information as may reasonably be requested by the Agent.

(k) [Intentionally Omitted]

(l) Government Approvals. Evidence that all material Government Approvals set forth on Schedule 7.05(a) have been duly obtained, were validly issued and are in full force and effect.

(m) Opinions of Counsel. Opinions of counsel, each in form and substance satisfactory to the Lenders:

(i) An opinion of Andrews Kurth LLP, special New York and Texas counsel to the Borrower, the Pledgors, the Manager and the Operator.



(ii) An opinion of Ottinger Hebert, L.L.C., special Louisiana counsel to the Borrower.

(iii) Copies of the opinions of (i) Vinson & Elkins, special New York counsel to Total LNG USA, Inc. and its guarantor pertaining to the Total TUA and (ii) in-house counsel to Total LNG, USA, Inc. and Total S.A., that were delivered pursuant to the Original Credit Agreement;

(iv) A copy of the Secretary's certificate from each of Chevron U.S.A. Inc. and its guarantor pertaining to the Chevron TUA, that were delivered pursuant to the Original Credit Agreement;

(v) A copy of the opinions of (i) Thelen, Reid and Priest, New York counsel to the Phase 1 EPC Contractor, (ii) Bracewell & Patterson LLP, Texas counsel to the Phase 1 EPC Contractor and (iii) in-house counsel to the Phase 1 EPC Contractor pertaining to the Phase 1 EPC Contract, that were delivered pursuant to the Original Credit Agreement; and

(vi) A copy of the opinions of special regulatory counsels to the Borrower that were delivered pursuant to the Original Credit Agreement.

(n) Appointment of Process Agent; Independent Accounting Firm. Delivery of evidence that (i) each of the Borrower, the Pledgors and the Operator has appointed an agent in the State of New York to receive service of process under the Financing Documents and (ii) the Borrower has appointed UHY/Mann, Frankfort, Stein and Lipp CPAs LLC as its independent accounting firm and has authorized such firm to communicate directly with the Agent.

(o) Equity Contribution. A certificate of the Borrower signed by an Authorized Officer of the Borrower certifying (i) that amounts of equity contributions and subordinated indebtedness have been contributed or lent to the Borrower by the pledgors in an amount at least equal to the Equity Contribution Amount and the dates on which such contributions or loans were made and (ii) that such equity contributions and subordinated indebtedness were used to pay project costs.

(p) Insurance Policies. Certificates of insurance evidencing the existence of all insurance policies required to be maintained by the Borrower in respect of Phase 1 pursuant to Section 8.05, such certificates to be in such form and contain such information as specified in Section 8.05. In addition, the Borrower shall have delivered a certificate of the Borrower signed by an Authorized Officer of the Borrower setting forth the insurance obtained and stating that such insurance and, to its knowledge, all insurance required to be obtained by a Material Project Party (other than the Phase 2 Construction Contractors) pursuant to a Material Project Document (other than the Phase 2 Construction Contracts) (i) has been obtained and in each case is in full force and effect, (ii) that such insurance materially complies with the requirements of Section 8.05, Schedule 8.05 and the Other Finance Documents and (iii) that all premiums then due and payable on all insurance required to be obtained by the Borrower have been paid.

(q) Master Assignment and Acceptance Agreement. (i) the Master Assignment and Acceptance Agreement, duly executed by each of the parties thereto and (ii) the assignment and assumption of the loans under the Original Credit Agreement contemplated in the Master Assignment and Acceptance Agreement shall have been consummated.

6.02 Conditions Precedent to Initial Phase 2 Funding Date. The occurrence of the Initial Phase 2 Funding Date and the obligations of the Lenders to make the initial disbursement for Phase 2 Project Costs under this Agreement is subject to the satisfaction of the conditions precedent set forth below and in Section 6.03 in form and substance satisfactory to the Lenders, unless in each case, waived by each Lender:

(a) Financing Documents. Each Phase 2 Construction Consent and the Tank Contractor Guarantee Consent duly executed and delivered by the parties thereto.

(b) Project Documents. (i) An original or certified copy of each Phase 2 Construction Contract and each Material Project Document or Other Project Document not previously delivered pursuant to Section 6.01 or pursuant to the Original Credit Agreement, each duly executed and delivered by the intended parties thereto and (ii) a certificate of an Authorized Officer of the Borrower certifying that all conditions precedent to the obligations of each Phase 2 Construction Contractor under each Phase 2 Construction Contract shall have been satisfied or waived except for such conditions precedent which need not and cannot be satisfied until a later stage of Development and no default or event of force majeure shall exist thereunder.

(c) Corporate Documents. The following documents, each certified as indicated below:

(i) in the case of each Phase 2 Construction Contractor, a copy of a certificate as to the good standing of and payment of franchise taxes by such Person from the Secretary of State of such Person's jurisdiction of organization dated as of a recent date; and

(ii) if more than 180 days have passed since the Effective Date, each of the documents listed in Section 6.01(c), each certified as of a recent date.

(d) Financial Statements. To the extent available to the Borrower, certified copies of the most recent audited financial statements of the Phase 2 Construction Contractors.

(e) Final Insurance Report. A final report from the Insurance Advisor confirming that the insurance policies provided as of the Initial Phase 2 Funding Date in respect of Phase 2 pursuant to and in accordance with Section 8.05 are typical for undertakings similar to the Project, are in full force and effect, the premiums then due and payable thereon have been paid and that such policies otherwise conform with the requirements specified in the Financing Documents.

(f) Government Approvals. Evidence that all material Government Approvals in respect of Phase 2 set forth in Schedule 7.05(b) required for the current stage of Development have been duly obtained, were validly issued and are in full force and effect.

(g) Opinions of Counsel. Opinions of counsel, each in form and substance satisfactory to the Lenders:

(i) An opinion of Andrews Kurth LLP, special New York and Texas counsel to the Borrower, or such other counsel as the Lenders shall approve, with respect to the due authorization, execution and delivery by the Borrower of, and enforceability of the Borrower's obligations under, each Phase 2 Construction Contract, each Phase 2 Construction Consent and the Tank Contractor Guarantee Consent;

(ii) Opinions of counsels to the Phase 2 Construction Contractors, substantially in the form attached in Exhibit Q;

(iii) Opinions of special regulatory counsel to the Borrower with respect to environmental and Louisiana regulatory matters substantially in the form attached in Exhibit P, and with respect to the Borrower's receipt of authorization from FERC pursuant to Section 3(a) of the NGA, to site, construct and operate the additional Phase 2 facilities at its LNG receiving terminal in Cameron Parish, Louisiana, and that such authorization is final and non-appealable and remains in full force and effect; and

(iv) Bringdown opinions of counsel referred to in Sections 6.01(m)(i), (ii) and (vi), each in substantially the same form as the opinions delivered by such counsel pursuant to said sections on the Effective Date.

(h) Insurance Policies. Certificates of insurance evidencing the existence of all insurance policies required to be maintained by the Borrower in respect of Phase 2 pursuant to Section 8.05, such certificates to be in such form and contain such information as specified in Section 8.05. In addition, the Borrower shall have delivered a certificate of the Borrower signed by an Authorized Officer of the Borrower setting forth the insurance obtained and stating that such insurance and, to its knowledge, all insurance required to be obtained by a Phase 2 Construction Contractor pursuant to a Phase 2 Construction Contract (i) has been obtained and in each case is in full force and effect, (ii) that such insurance materially complies with the requirements of Section 8.05, Schedule 8.05 and the Other Finance Documents and (iii) that all premiums then due and payable on all insurance required to be obtained by the Borrower have been paid.

(i) Independent Engineer's Certificate. A certificate of the Independent Engineer to the effect that (A) the construction of Phase 2 in no material way adversely affects the construction of Phase 1 or the ability of Phase 1 to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date, (B) the total amount of the Phase 2 Loans then requested does not exceed the Phase 2 Allocation and (C) no act,

event or condition has occurred since the date of the report delivered pursuant to Section 6.01(d)(iii) that would have a material effect on its findings and conclusions set forth therein or could reasonably be expected to have a Material Adverse Effect, which certificate shall be substantially in the form of Exhibit C-1

(j) ERISA. A certificate of an Authorized Officer of each Pledgor certifying that in respect of such Pledgor or any ERISA Affiliate, no ERISA Event has occurred and that the present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent annual financial statements of such Pledgor reflecting such amounts, exceed 10% of the Net Worth of the Pledgor.

(k) FERC Approval. The Borrower shall have received authorization from FERC pursuant to Section 3(a) of the NGA to site, construct and operate the additional Phase 2 facilities at its LNG receiving terminal in Cameron Parish, Louisiana and the Agent shall have received certification from the Borrower, as verified by the Independent Engineer, that all conditions therein required to be completed for the stage of Development as of the Effective Date shall have been satisfied.

(l) Fees and Taxes. Evidence that all filing, recordation, subscription and inscription fees and all recording and other similar fees, and all recording, stamp and other taxes and other expenses related to such filings, registrations and recordings necessary for the consummation of the transactions contemplated by this Agreement and the other Financing Documents and Project Documents have been paid in full by or on behalf of the Borrower (to the extent such evidence was not provided pursuant to Section 6.01(h)(ii)).

(m) Bechtel / Sabine Account Agreement. The Bechtel / Sabine Account Agreement, duly executed and delivered by the parties thereto.

6.03 Conditions Precedent to all Loans. The obligation of the Lenders to make any Loan (including the extension of credit on the Initial Phase 2 Funding Date and the final extension of credit on the Final Funding Date) is subject to the satisfaction on the date of such extension of credit of the conditions precedent set forth below in form and substance satisfactory to the Lenders, unless in each case, waived by each Lender:

(a) Borrower's Certificate. The Agent shall have received a certificate of the Borrower signed by an Authorized Officer of the Borrower certifying that: (i) each of the representations and warranties of the Borrower contained in Article VII is (A) if such representation and warranty is qualified as to materiality or by reference to the existence of a Material Adverse Effect, true and complete to the extent of such qualification on and as of the date of such extension of credit (both immediately prior to such extension of credit and also after giving effect to such extension of credit and to the intended use of such extension of credit) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) or (B) if such representation and warranty is not so qualified, true and complete in all material respects on and as of the date of such extension of credit (both immediately prior to such extension of credit and

also after giving effect to such extension of credit and to the intended use of such extension of credit) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date), (ii) no Default or Event of Default has occurred and is continuing as of the date of such disbursement and no Default or Event of Default will result from the requested disbursement or the consummation of the transactions contemplated by the Transaction Documents, (iii) no act, event or circumstance affecting the Borrower has arisen that could reasonably be expected to have a Material Adverse Effect and (iv) the Collateral is subject to the perfected first priority Lien (subject only to Permitted Liens) and the security interest established pursuant to the Security Documents.

(b) Notice of Borrowing. The Agent shall have received from the Borrower, with a copy for each Lender, a Notice of Borrowing conforming to the requirements of Section 2.02 and Section 4.05 and specifying the amount of the requested Loan.

(c) Absence of Default; Material Adverse Effect. No Default or Event of Default shall have occurred and be continuing. There has been no event or occurrence which has had or could reasonably be expected to have a Material Adverse Effect.

(d) Borrowing Certificate. The Agent and the Independent Engineer shall have received, at least five Business Days prior to the date of the Notice of Borrowing (or, in the case of the initial borrowing hereunder, such other period of time as the Agent may agree), a Borrowing Certificate dated as of the date of the proposed Loan which shall be substantially in the form attached as Exhibit B-1.

(e) Payment of Project Costs. (i) The amount of each Phase 1 Loan requested by the Borrower on the date of the Borrowing Certificate shall not, when taken together with each other Phase 1 Loan, exceed the Phase 1 Allocation, (ii) the amount of each Phase 2 Loan requested by the Borrower on the date of the Borrowing Certificate shall not, when taken together with each other Phase 2 Loan, exceed the Phase 2 Allocation and (iii) the amount of each Phase 1 Loan requested and Phase 2 Loan requested, as applicable, shall not exceed the sum (without duplication) of (A) the Phase 1 Project Costs and Phase 2 Project Costs, as applicable, due and to be paid on or prior to the date of such certificate or reasonably expected to be due or incurred within the next 30 days succeeding the date of such certificate (without duplication of any other Borrowing Certificate), (B) the Required Debt Service Reserve Amount, if then applicable, (C) any Operation and Maintenance Expense to be paid on or prior to the date of such certificate or reasonably expected to be due or incurred within the next 30 days succeeding the date of such certificate (without duplication of any other Borrowing Certificate) and (D) Debt Service due within the next 30 days; provided, that (x) no cost overruns shall have occurred and be continuing which could reasonably be expected to result in Project Costs in excess of funds available to pay such Project Costs and (y) the loan proceeds to be disbursed shall be reduced in accordance with the proviso to paragraph (i) below.

(f) Title Policy Endorsement. A continuation report of and an endorsement to the Title Policy to the date of such extension of credit in the form reasonably approved by the Agent conforming to the pending disbursement requirements set forth in Exhibit D

and setting forth no additional exceptions (including Survey exceptions) except those approved by the Agent.

(g) Construction Report. The Agent shall have received the Construction Reports contemplated in Section 8.19, substantially in the form of, in the case of a Phase 1 Loan, Exhibit G-1, and in the case of a Phase 2 Loan other than the initial Phase 2 Loan, Exhibit G-2, which are due on or before the date of the Notice of Borrowing.

(h) Independent Engineer's Certificate. The Agent shall have received a certificate of the Independent Engineer dated as of the date of the Notice of Borrowing, satisfactory to the Agent, certifying (1) to the extent that Phase 1 Loans are requested (i) that the progress of construction of Phase 1 is in accordance with the Phase 1 Construction Budget and Schedule, (ii) as to the current utilization of previous borrowings for Phase 1 Project Costs, (iii) that Phase 1 is reasonably expected to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date and (iv) as to the existence of sufficient funds needed to achieve Phase 1 Final Completion, and (2) to the extent that Phase 2 Loans are requested, that (i) the ongoing construction of Phase 2 in no material way adversely affects the construction of Phase 1 or the ability of Phase 1 to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date, (ii) the total amount of Phase 2 Loans requested does not, when taken together with all other Phase 2 Loans, exceed the Phase 2 Allocation and (iii) as to the current utilization of previous borrowings for Phase 2 Project Costs, which such certificate shall be substantially in the form of Exhibit C-2.

(i) Evidence of Project Costs. The Agent and the Independent Engineer shall have received (i) a copy of all monthly invoices issued under the Phase 1 EPC Contract, each Phase 2 Construction Contract and all invoices in connection with any other Phase 1 Project Costs, Phase 2 Project Costs and Operation and Maintenance Expenses which the Borrower intends to pay with such Loan, (ii) projections of invoices expected to be received within 30 days after the date of the applicable Borrowing Certificate under the Phase 1 EPC Contract, each Phase 2 Construction Contract and any other Phase 1 Project Costs or Phase 2 Project Costs which the Borrower intends to pay with such Loan, in each case not less than five Business Days prior to the date of the Notice of Borrowing, as evidence of the Phase 1 Project Costs or Phase 2 Project Costs related to the applicable Borrowing Certificate; provided, that the Borrower shall (A) submit evidence, satisfactory to the Agent and certified by the Independent Engineer, demonstrating that all amounts borrowed pursuant to the preceding Borrowing Certificate which were expended were, in the case of a Phase 1 Loan, used to pay Phase 1 Project Costs (or Debt Service) or, in respect of any disputed amounts, deposited to the Escrow Account or retained in the Phase 1 Construction Account pending resolution of the dispute or, in the case of a Phase 2 Loan, used to pay Phase 2 Project Costs (or Debt Service), or in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute, (B) certify that Loan proceeds borrowed pursuant to the preceding Borrowing Certificate and not yet expended as previously projected shall be expended during the next 30 days or, in respect of any disputed amounts, in the case of a Phase 1 Loan, deposited to the Escrow Account or retained in the Phase 1 Construction

Account or, in the case of a Phase 2 Loan, retained in the Phase 2 Construction Account, in each case pending resolution of the dispute, as certified by the Independent Engineer or (C) reduce the amount of the Loans requested pursuant to the current Notice of Borrowing in an amount equal to the Loan proceeds not previously expended or, in respect of any disputed amounts, in the case of a Phase 1 Loan, deposited to the Escrow Account or retained in the Phase 1 Construction Account or, in the case of a Phase 2 Loan, retained in the Phase 2 Construction Account, in each case pending resolution of the dispute and not contemplated to be spent pursuant to clause (B) above; provided, that in no event shall the borrowing be reduced below \$2,000,000.

(j) No Suspension. Confirmation from the Borrower that no Suspension of Phase 1 has occurred that is continuing as of the date of such borrowing.

(k) Phase 1 Substantial Completion Schedule. To the extent that Phase 1 Loans are requested, the Agent shall have received certification by the Borrower that Phase 1 is reasonably expected to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date and that sufficient funds exist in order to achieve Phase 1 Substantial Completion.

(l) Lien Waivers. The Agent shall have received (i) the applicable interim lien waivers executed by the Phase 1 EPC Contractor and each Phase 2 Construction Contractor, as contemplated by the respective Phase 1 EPC Contract and each Phase 2 Construction Contract, in respect of the current monthly invoice and in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) and (ii) evidence that the Phase 1 EPC Contractor and each of the Phase 2 Construction Contractors has received the applicable interim lien waivers in respect of the current invoices and in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) from all of their principal subcontractors and principal sub-subcontractors, as contemplated by the respective Phase 1 EPC Contract and each Phase 2 Construction Contract, which interim lien waivers shall be satisfactory to the Agent and the Independent Engineer.

(m) Payment of Fees. Payment by or on behalf of the Borrower of such fees and expenses which are payable by the Borrower on the date of such borrowing pursuant to Section 2.04, Section 11.03 and the Fee Letters and any other fees and expenses, if any, that the Borrower and the Agent have agreed shall be due and payable on such date (including the fees and expenses of legal counsel in accordance with Section 11.03).

(n) Effective Date. The Effective Date shall have occurred.

(o) Real Property Documents; Title Insurance; Survey.

(i) the Title Policy, endorsed to redate the Title Policy to the date of recording of the Second Amendment to Mortgage, reflect the increased aggregate principal amount of loans to be made by the Lenders pursuant to this Agreement,

of up to \$1,500,000,000 and setting forth no additional exceptions (including Survey exceptions) except those approved by the Agent;

(ii) the Survey reflecting the portion of the Site added by the Second Amendment to Mortgage;

(iii) Proof of payment to the Title Company of (A) all expenses and premiums of the Title Company in connection with the issuance or endorsement of the Title Policy and (B) an amount equal to any recording and stamp taxes payable in connection with recording the Mortgage or any amendment thereto in the appropriate parish clerk of court office(s); and

(iv) the Second Amendment to Lease.

6.04 Final Funding Date. The occurrence of the Final Funding Date and the obligation of the Lenders to make the final extension of credit under the Commitment is subject to the satisfaction on such date of the conditions precedent set forth below in form and substance satisfactory to the Lenders unless, in each case, waived by each Lender:

(a) Final Borrowing Certificate. The Agent and the Independent Engineer shall have received at least five Business Days prior to the date of the Notice of Borrowing, a Final Borrowing Certificate dated as of the date of the proposed borrowing, which shall be substantially in the form of the attached Exhibit B-2.

(b) Final Independent Engineers Certificate. The Agent shall have received a certificate of the Independent Engineer dated as of the date of the final Notice of Borrowing, satisfactory to the Agent, certifying, inter alia, (i) as to the current utilization of previous borrowings, (ii) that Phase 1 has achieved Phase 1 Substantial Completion, (iii) that the amount of the proposed final Phase 1 Loan to be deposited to the Phase 1 Construction Payment Subaccount and the Phase 1 Punchlist Retention Subaccount is sufficient to achieve Phase 1 Final Completion and (iv) that the Independent Engineer is not aware of any fact or circumstance which would render any statement made by the Borrower in the final Notice of Borrowing untrue or misleading, which certificate shall be substantially in the form of Exhibit C-3.

(c) Term Conversion Date. The Term Conversion Date shall have occurred.

(d) Amount of Loan. The amount of the Loan requested shall be equal to the remaining undrawn amount of the Phase 2 Allocation plus the remaining undrawn amount of the Phase 1 Allocation (after the making of the Phase 1 Loan in the amount required to be transferred to the Phase 1 Punchlist Retention Subaccount and the Phase 1 Construction Payment Subaccount in accordance with Sections 4.01(c)(ii) and 4.01(c)(iii), respectively, of the Collateral Agency Agreement has been so made and transferred), which amount shall be held in the Phase 2 Construction Account. Following the occurrence of the Final Funding Date, any withdrawal from the Phase 2 Construction Account shall be subject to the satisfaction on the date of such withdrawal of the conditions precedent set forth in Sections 6.03(c), 6.03(e)(iii), 6.03(g), 6.03(h)(iii), 6.03(i), 6.03(j) with respect to Suspension of Phase 2 and 6.03(l) (and any reference



therein to the date of the Notice of Borrowing shall be deemed to be a reference to the date of the Executed Withdrawal/Transfer Certificate as defined in the Collateral Agency Agreement and any reference therein to the making of a Loan shall be deemed to be a reference to a withdrawal or transfer from the Phase 2 Construction Account) in form and substance satisfactory to the Lenders unless, in each case, waived by each Lender.

## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lenders that:

7.01 Existence. The Borrower is a limited partnership duly formed, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business as a foreign partnership in the State of Louisiana and in all other places where necessary in light of the business it conducts and intends to conduct and the Property it owns and intends to conduct and own and in light of the transactions contemplated by the Transaction Documents, except for where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. No filing, recording, publishing or other act by the Borrower that has not been made or done is necessary in connection with the existence or good standing of the Borrower.

7.02 Financial Condition. The financial statements of the Borrower, Pledgors and Operator furnished to the Agent (a) pursuant to ~~Section 6.01(c)~~ and (b) pursuant to Section 8.01 (as applicable), fairly present in all material respects the financial condition of such Person as of the date thereof, all in accordance with GAAP (subject to normal year-end adjustments). As of such date of such financial statements, neither the Borrower, the Pledgors nor the Operator has any material contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments which are required by GAAP to be disclosed in the foregoing financial statements, except as referred to or reflected or provided for in such financial statements or as arising solely from the execution and delivery of the Transaction Documents. There has been no material adverse change in the financial condition, operations or business of the Borrower, the Pledgors or the Operator from that set forth in such financial statements as of the date thereof.

7.03 Action. The Borrower has full limited partnership power, authority and legal right to execute and deliver, and to perform its obligations under, the Transaction Documents to which the Borrower is a party. The execution, delivery and performance by the Borrower of each of the Transaction Documents to which it is a party have been duly authorized by all necessary limited partnership action on the part of the Borrower. Each of the Transaction Documents to which the Borrower is a party has been duly executed and delivered by the Borrower and is in full force and effect and constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws. To the Borrower's Knowledge, (a) each Pledgor and each Material Project Party has the full power, authority and legal right to execute and deliver, and to perform its obligations under, the Transaction Documents to which such Person is a party, (b) the execution, delivery and performance by each

Pledgor and each Material Project Party of each of the Transaction Documents to which it is a party and the consummation of the transactions contemplated thereby have been duly authorized by all necessary corporate or partnership action on the part of such Person and (c) each of the Transaction Documents to which any such Person is a party has been duly executed, and delivered by such Person and constitutes the legal, valid and binding obligation of such Person enforceable against such Person in accordance with its terms, except as such enforceability may be limited by general principles of equity and bankruptcy, insolvency and similar laws.

7.04 No Breach. The execution, delivery and performance by the Borrower and, to the Borrower's Knowledge, each Pledgor and each Material Project Party, of each of the Transaction Documents to which it is or is intended to be a party do not and will not: (a) require any consent or approval of any Person that has not been obtained and remains in full force and effect (other than Government Approvals that are not required to be obtained and to be in full force and effect for the then relevant stage of the Development), (b) violate any provision of any Government Rule or Government Approval applicable to any such Person or the Project, (c) violate, result in a breach of or constitute a default under any Transaction Document to which any such Person is a party or by which it or its Property may be bound or affected or (d) result in, or create any Lien (other than a Permitted Lien) upon or with respect to any of the Properties now owned or hereafter acquired by the Borrower, other than as to Non-Material Project Documents where failing to obtain such consent or approval, or such violation, or creation of lien could not reasonably be expected to result in a Material Adverse Effect.

7.05 Government Approvals; Government Rules.

(a) All material Government Approvals for the Development (including sale of Services) that have been obtained by the Borrower or for the benefit of the Project by third parties as of the date hereof are set forth on Schedule 7.05(a). Except as otherwise noted on Schedule 7.05(a), all Government Approvals set forth on Schedule 7.05(a) have been duly obtained, were validly issued, are in full force and effect, and are not the subject of any pending appeal and all applicable appeal periods have expired (except Government Approvals which do not have limits on appeal periods under Government Rules or appeals which could not reasonably be expected to have a Material Adverse Effect), are held in the name of the Borrower or such third party as indicated on such Schedule 7.05(a) and are free from conditions or requirements which (i) could reasonably be expected to have a Material Adverse Effect or (ii) the Borrower or such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to so satisfy such condition or requirement could not reasonably be expected to have a Material Adverse Effect. No Material Adverse Effect could reasonably be expected to result from any such Government Approvals being held by or in the name of Persons other than the Borrower.

(b) All material Government Approvals not obtained as of as of the date hereof but necessary for the Development (including the sale of Services) to be obtained by the Borrower or for the benefit of the Project by third parties after the Effective Date are set forth on Schedule 7.05(b). No Material Adverse Effect could reasonably be expected to result from any such Government Approvals being obtained in the name of Persons other than the Borrower.

(c) All material Government Approvals required to be held by the Borrower or the third party indicated on Schedule 7.05(b) for the current stage of Development (as identified by the dates on Schedule 7.05(b) for which such Government Approvals are reasonably projected to be required), have been duly obtained and validly issued, are in full force and effect, are not the subject of any pending or threatened appeal (except appeals which could not reasonably be expected to have a Material Adverse Effect), are held in the name of the Borrower or such third party and are free from conditions or requirements which (i) could reasonably be expected to have a Material Adverse Effect or (ii) the Borrower or such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to so satisfy such condition or requirement could not reasonably be expected to have a Material Adverse Effect.

(d) The Borrower reasonably believes that any material Government Approvals which have not been obtained by the Borrower or the relevant third party as of the date of the making of this representation, but which shall be required to be obtained in the future by the Borrower or such third party for the Development, shall be obtained in due course on or prior to the commencement of the appropriate stage of Development for which such Government Approval would be required and shall not contain any condition or requirements, the compliance with which could reasonably be expected to result in a Material Adverse Effect or which the Borrower or the relevant third party (as the case may be) does not expect to satisfy on or prior to the commencement of the appropriate stage of Development, except to the extent that a failure to so satisfy such condition or requirement could not reasonably be expected to have a Material Adverse Effect. No Material Adverse Effect could reasonably be expected to result from any such Government Approvals being obtained in the name of Persons other than the Borrower. The Project, if constructed in accordance with the Phase 1 Construction Budget and Schedule or Phase 2 Construction Budget and Schedule, as applicable, and otherwise Developed as contemplated by the Material Project Documents, will conform to and comply with all covenants, conditions, restrictions and reservations in the applicable Government Approvals and all applicable Government Rules, except to the extent that a failure to so conform or comply could not reasonably be expected to have a Material Adverse Effect.

(e) The Borrower is in compliance in all material respects with, all Government Rules and Government Approvals applicable to the Borrower.

7.06 Proceedings. There is (a) no action, suit or proceeding at law or in equity or by or before any Government Authority or arbitral tribunal now pending or, to the Borrower's Knowledge, threatened against the Borrower or the Project or with respect to any Material Project Document or Government Approval related to the Project and (b) no existing default by the Borrower under any applicable order, writ, injunction or decree of any Government Authority or arbitral tribunal, which in the case of clause (a) could reasonably be expected to have a Material Adverse Effect.

7.07 Environmental Matters. Except as otherwise specified on Schedule 7.07 to this Agreement:

(a) The Project has (i) at all times complied and is in compliance with all Environmental Laws and all Government Approvals required under any Environmental

Laws and (ii) obtained and maintained in full force and effect all Government Approvals required for the Project under Environmental Laws, except for any non-compliance or failure to obtain or maintain in full force and effect that individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect. There are no pending, or to the Borrower's Knowledge, threatened, actions that have a reasonable likelihood of success and are material by any Government Authority or any other Person to revoke, terminate, cancel, withdraw, limit, amend or appeal any Government Approvals required for the Project under Environmental Laws.

(b) There are no facts, circumstances, conditions or occurrences regarding the Project that could reasonably be expected (i) to form the basis of a material Environmental Claim or give rise to a material liability or material investigatory, corrective or remedial obligation under any Environmental Law, with respect to the Project, or against the Project or the Borrower, that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect or (ii) to cause the Project to be subject to any restrictions on ownership, occupancy, use or transferability under any Environmental Law that would materially hinder or restrict the Borrower or any other Person from operating the Project as intended under the Material Project Documents (excluding restrictions on the transferability of Government Approvals upon the transfer of ownership of assets subject to such Government Approval).

(c) There are (i) no past Environmental Claims, (ii) no pending Environmental Claims or (iii) to the Borrower's Knowledge, no threatened Environmental Claims, in each case arising with respect to the Project against the Project or the Borrower, that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(d) Hazardous Materials have not at any time been Released at, on, under or from the Project other than in compliance at all times with all applicable Environmental Laws or so as not to give rise to a material Environmental Claim or a material liability or material investigatory, corrective or remedial obligation under any Environmental Law.

(e) There have been no material environmental investigations, studies, audits, reviews or other analyses relating to environmental site conditions that have been conducted by, or which are in the possession or control of the Borrower in relation to the Project which have not been provided to the Agent and the Lenders.

**7.08 Taxes.** The Borrower has timely filed or caused to be filed all tax returns that are required to be filed, and has paid all taxes shown to be due and payable on such returns or on any assessments made against the Borrower or any of its Property and all other Taxes imposed on the Borrower or its Property by any Government Authority (other than Taxes the payment of which are not yet due or which are being Contested and other than Taxes the nonpayment of which could not reasonably be expected to have a Material Adverse Effect), and no tax Liens (other than Permitted Liens) have been filed and no claims are being asserted with respect to any such Taxes.

7.09 Tax Status. The Borrower is a limited partnership that is treated as a partnership for federal, state and local income tax purposes. All persons holding an interest in the Borrower treated as equity for tax purposes are U.S. persons within the meaning of Code section 7701(a)(30).

7.10 ERISA; ERISA Event.

(a) The Borrower does not employ any employees and does not sponsor, maintain, administer, contribute to, participate in, or have any obligation to contribute to, or any liability under, any Plan or Multiemployer Plan nor has the Borrower established, sponsored, maintained, administered, contributed to, participated in, or had any obligation to contribute to or liability under any Plan or Multiemployer Plan.

(b) No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent annual financial statements reflecting such amounts, exceed 10% of the Net Worth of any Pledgor.

7.11 Nature of Business. The Borrower has not engaged in any business other than the Development as contemplated by the Transaction Documents.

7.12 Security Documents. The Borrower owns good and valid title to all of its property, free and clear of all Liens other than Permitted Liens. The provisions of the Security Documents are effective to create, in favor of the Collateral Agent for the benefit of the Secured Parties, a legal, valid and enforceable Lien on and security interest in all of the Collateral purported to be covered thereby, and all necessary recordings and filings have been made in all necessary public offices (or adequate provision therefor has been made in a manner acceptable to the Lenders), and all other necessary and appropriate action has been taken, so that each such Security Document creates a perfected Lien on and security interest in all right, title and interest of the Borrower in the Collateral covered thereby, prior and superior to all other Liens other than Permitted Liens and all necessary and appropriate consents to the creation, perfection and enforcement of such Liens have been obtained from each of the parties to the Material Project Documents and the Other Project Documents.

7.13 Subsidiaries. The Borrower has no Subsidiaries.

7.14 Status.

(a) The Borrower is not (i) an "investment company" or a company "Controlled" by an "investment company" within the meaning of the Investment Company Act of 1940 or an "investment advisor" within the meaning of the Investment Company Act of 1940.

(b) None of the Borrower, the Agent, the Collateral Agent or the Lenders, solely by virtue of the execution, delivery and performance of, or its consummation of the transactions contemplated by Financing Documents shall be or become: (i) a "natural-gas

company” as such terms are defined in the NGA or subject to regulation pursuant to the NGA, (ii) subject to regulation under the law of the State of Louisiana with respect to rates, or subject to material financial and organizational regulation under such law or (iii) subject to regulation under the law of the State of Louisiana as a “public utility”, a “gas utility”, a “public service corporation” or other similar term.

7.15 Material Project Documents; Licenses.

(a) The Project Documents in effect as of the date of the making of this representation and the Additional Project Documents (together with each Ancillary Document related thereto) entered into in accordance with this Agreement, constitute and include all material contracts and agreements relating to the Development and, other than the Financing Documents, the Borrower is not and will not be a party to any contract or agreement that is not a Project Document that it is permitted to enter into pursuant to the terms hereof. There are no material contracts, services, materials or rights (other than Government Approvals) required for the current stage of the Development other than those granted by, or to be provided to the Borrower pursuant to, the Material Project Documents, the Other Project Documents and the Financing Documents. The Agent has received a certified copy of each Material Project Document and Other Project Document as in effect on the date of its delivery to the Agent and each amendment, modification or supplement to each such Project Document. None of the Project Documents has been amended, modified, supplemented, transferred or assigned, except as permitted by this Agreement or has been materially Impaired except, with respect to Non-Material Project Documents or Other Project Documents, such amendments, modifications or supplements (and, with respect to Non-Material Project Documents, such transfers or assignments) which could not reasonably be expected to have a Material Adverse Effect, and all of the Project Documents (other than those that are not required to be entered into pursuant to this Agreement as of the date of the making of this representation or that have been cancelled or terminated as permitted under this Agreement) are in full force and effect except, with respect to Non-Material Project Documents or Other Project Documents, such cancellations or terminations or failures to be in full force and effect which could not reasonably be expected to have a Material Adverse Effect. All conditions precedent to the obligations of the Borrower under the Material Project Documents have been satisfied or waived except for such conditions precedent which need not and cannot be satisfied until a later stage of Development. The Borrower has not given or received a notice of default under any Project Document except, with respect to Non-Material Project Documents or Other Project Documents, those which could not reasonably be expected to have a Material Adverse Effect and, to the Borrower’s Knowledge, no Project Party is in default of any material covenant or material obligation set forth in any Project Document and no condition has occurred that would become such a default with the giving of notice or lapse of time except, with respect to Non-Material Project Documents or Other Project Documents, those conditions which could not reasonably be expected to have a Material Adverse Effect.

(b) All material permits, licenses, trademarks, patents or agreements with respect to the usage of technology that are necessary for the current stage of the Development have been obtained, are final and are in full force and effect, and the use thereof by the Borrower does not infringe upon the rights of any other person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse

Effect. The Borrower reasonably believes that all such permits, licenses, trademarks, patents or agreements necessary for all future stages of the Development will be timely obtained in the ordinary course and will not be subject to terms or conditions which could reasonably be expected to result in a Material Adverse Effect.

(c) Except as listed on Appendix D or as otherwise permitted pursuant to Section 8.24, the Borrower has not entered into any agreements with any Pledgor or any of its Affiliates other than transactions entered into in the ordinary course of business, on terms no less favorable to the Borrower than the Borrower would obtain in a comparable arm's length transaction with a Person that is not an Affiliate of the Borrower or a Pledgor.

7.16 Margin Stock. No part of the proceeds of any Loan will be used for the purpose, whether immediate, incidental or ultimate, of buying or carrying any Margin Stock or to extend credit to others for such purpose.

7.17 Disclosure. The Borrower has disclosed to the Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Neither this Agreement nor any Financing Document nor any reports, financial statements, certificates or other written information furnished to the Lenders by or on behalf of the Borrower in connection with the negotiation of, and the extension of credit under, this Agreement and the other Financing Documents and the transactions contemplated by the Material Project Documents or delivered to the Agent or the Lenders hereunder or thereunder (as modified or supplemented by other information so furnished), when taken as a whole, contains any untrue statement of a material fact pertaining to the Borrower or the Project or omits to state a material fact pertaining to the Borrower or the Project necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading, in any material respect; provided, that with respect to any projected financial information, forecasts, estimates, or forward-looking information, including that contained in the Phase 1 Construction Budget and Schedule, the Phase 2 Construction Budget and Schedule and the Base Case Forecast, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time and the Borrower makes no representation as to the actual attainability of any projections set forth in the Base Case Forecast, the Phase 1 Construction Budget and Schedule, the Phase 2 Construction Budget and Schedule or any such other items listed in this sentence. Without limiting the generality of the foregoing, no representation or warranty is made by the Borrower as to any information or material provided to the Borrower, the Agent or the Lenders by the Independent Engineer or the Insurance Advisor (except to the extent such information or material originated with the Borrower).

7.18 Insurance. All insurance required to be obtained by the Borrower has been obtained and is in full force and effect and materially complies with Section 8.05 and Schedule 8.05, and all premiums then due and payable on all such insurance have been paid, and to the Borrower's Knowledge, all insurance required to be obtained as of the date this representation is made by a Material Project Party pursuant to a Material Project Document has been obtained and is in full force and effect and materially complies with Section 8.05 and Schedule 8.05.

7.19 Indebtedness: Investments. The Borrower (a) does not have any Investments except Permitted Investments and (b) has not incurred any Indebtedness other than Permitted Indebtedness.

7.20 No Material Adverse Effect. To the Borrower's Knowledge, there are no facts or circumstances which, individually or in the aggregate, have resulted or could reasonably be expected to result in a Material Adverse Effect.

7.21 Absence of Default. No Default or Event of Default has occurred and is continuing.

7.22 Ownership. As of the date hereof, the Borrower is an indirect wholly-owned Subsidiary of Cheniere Energy, Inc.

7.23 Property. All material real and personal property rights necessary for the current stage of Development have been obtained by the Borrower and are in good standing.

7.24 No Force Majeure. No event of force majeure or other event or condition exists which (a) permits any Material Project Party to cancel or terminate its performance under any Material Project Documents to which it is a party in accordance with the terms thereof or (b) permits any Material Project Party to suspend its performance under any Material Project Document to which it is a party in accordance with the terms thereof, which suspension could reasonably be expected to have a Material Adverse Effect or (c) could excuse any such party from liability for nonperformance under any Material Project Document to which it is a party, which excuse from liability could reasonably be expected to have a Material Adverse Effect.

7.25 Ranking. The Financing Documents (other than the Consents and Agreements) and the Secured Obligations evidenced thereby are and will at all times be secured obligations of the Borrower, and rank and will at all times rank senior in right of payment and otherwise at least *pari passu* with all other Indebtedness of the Borrower (other than Indebtedness permitted by Section 8.16(c)), whether now existing or hereafter outstanding.

7.26 Labor Matters. No labor problems or disturbances in connection with the Borrower or the Project exist or, to the Borrower's Knowledge, are threatened which could reasonably be expected to have a Material Adverse Effect.

7.27 Operating Arrangements. The management, administration and operating-related responsibilities delegated to the Manager and the Operator pursuant to the Management Services Agreement and the O&M Agreement, collectively, constitute all of the management, administration and operating-related obligations, respectively, of the Borrower pursuant to the Transaction Documents and the Manager and Operator are capable of fulfilling and are bound to fulfill such obligations pursuant to the terms of the Management Services Agreement and the O&M Agreement.



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## ARTICLE VIII

### COVENANTS

The Borrower covenants and agrees with the Lenders and the Agent that until the Termination Date:

8.01 Reporting Requirements. The Borrower shall deliver to the Agent (in sufficient numbers for the Agent and each of the Lenders):

(a) as soon as available and in any event within 60 days after the end of each of the first three quarterly fiscal periods of each fiscal year of the Borrower, (i) unaudited statements of income and cash flows of the Borrower for such period and for the period from the beginning of the respective fiscal year to the end of such period, (ii) the related balance sheet as at the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period in the preceding fiscal year and (iii) commencing with the second quarterly fiscal period of the Borrower following the Term Conversion Date, a compliance certificate executed by the treasurer or the chief financial officer of the Borrower setting forth the calculation of the Debt Service Coverage Ratio for such period;

(b) as soon as available and in any event within 120 days after the end of each fiscal year of the Borrower, audited statements of income, partners' equity and cash flows of the Borrower for such year and the related balance sheets as at the end of such year, setting forth in each case, in comparative form the corresponding figures for the preceding fiscal year, and accompanied by (i) an opinion of UHY/Mann, Frankfort, Stein and Lipp CPAs LLC or such other independent certified public accountants of recognized national standing as are reasonably acceptable to the Agent, which opinion shall state that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower as at the end of, and for, such fiscal year in accordance with GAAP (subject to normal year-end audit adjustments) and shall state (for each fiscal year other than 2004) whether any knowledge of any Default or Event of Default was obtained during the course of their examination of such financial statements and (ii) commencing with the first fiscal year of the Borrower following the Term Conversion Date, a compliance certificate executed by the treasurer or the chief financial officer of the Borrower setting forth the calculation of the Debt Service Coverage Ratio for such period;

(c) as soon as practicable and in any event, unless otherwise specified, within ten Business Days after the Borrower obtains actual knowledge of any of the following, give written notice to the Agent of: (i) the occurrence of any Default or Event of Default and describing any action being taken or proposed to be taken with respect thereto, (ii) the occurrence of any casualty, loss or damage, or condemnation or eminent domain taking, with respect to the Project in excess of \$15,000,000 in value or any series of such events or circumstances during any 12-month period in excess of \$15,000,000 in value in the aggregate, (iii) any litigation or similar proceeding affecting the Project or the Borrower in which the amount involved is in excess of \$15,000,000, (iv) any dispute,

litigation, investigation or proceeding which may exist at any time between any Government Authority and the Borrower to the extent such dispute, litigation, investigation or proceeding involves the Project and could reasonably be expected to result in a Material Adverse Effect, (v) any written notice of the occurrence of any event giving rise (or that could reasonably be expected to give rise) to a claim under any insurance policy maintained with respect to the Project with copies of any material document relating thereto that are in the possession of the Borrower, (vi) notice of the occurrence of any force majeure event (together with a description of its expected duration) or (vii) any event or circumstance that could reasonably be expected to result in a material liability of the Borrower under ERISA or under the Internal Revenue Code with respect to any pension plan;

(d) promptly upon (i) delivery to another Material Project Party pursuant to a Material Project Document, copies of all material notices or other material documents delivered to such Material Project Party by the Borrower and (ii) such documents becoming available, copies of all material notices or other material documents received by the Borrower pursuant to any Material Project Document (including any notice or other document relating to a failure by the Borrower to perform any of its covenants or obligations under such Material Project Document, termination of a Material Project Document or a force majeure event under a Material Project Document) other than notices or other documents delivered in the ordinary course of administration of such Agreements;

(e) at the time it furnishes each set of financial statements pursuant to ~~toparagraph (a)~~ or (b) above, a certificate of the Borrower executed by an Authorized Officer of the Borrower stating that no Default has occurred and is continuing (or, if any Default has occurred and is continuing, describing the same in reasonable detail and describing the action that the Borrower has taken and proposes to take with respect to such Default);

(f) promptly after receipt thereof, a copy of each material statement or report received by the Borrower from the Operator pursuant to the O&M Agreement; and

(g) promptly after the occurrence of an ERISA Event, written notice of the occurrence of such ERISA Event.

#### 8.02 Maintenance of Existence, Etc.

(a) The Borrower shall preserve and maintain its legal existence as a Delaware limited partnership and all of its licenses, rights, privileges and franchises necessary for the Development.

(b) The Borrower shall at all times maintain its status as a partnership for U.S. federal, state and local income tax purposes. All of the owners of interests in the Borrower that are treated as equity for U.S. federal income tax purposes will be United States persons within the meaning of Code section 7701(a)(30).

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#### 8.03 Compliance with Government Rules, Etc.

(a) The Borrower shall comply in all material respects with all applicable Government Rules and shall from time to time obtain and renew, and shall comply in all material respects with, Government Approvals as are or in the future shall be necessary for the Development under applicable Government Rules.

(b) Except as provided in paragraph (c) below, the Borrower shall not petition, request or take any legal or administrative action that seeks to amend, supplement or modify any Government Approval in any material respect unless (i) the Borrower shall have furnished to the Agent a copy (certified by an Authorized Officer of the Borrower) of the proposed amendment, supplement or modification and a description of the actions that the Borrower proposes to take and (ii) such amendment, supplement or modification could not reasonably be expected to result in a Material Adverse Effect. The Borrower shall promptly upon receipt or publication furnish a copy (certified by an Authorized Officer of the Borrower) of each such amendment, supplement or modification to any such Government Approval to the Agent.

(c) If any Impairment of any Government Approval of the Borrower or related to the Project which could reasonably be expected to have a Material Adverse Effect shall occur, then the Borrower shall either (i) within 60 days obtain a replacement Government Approval on terms and conditions that are in all material respects the same as those of such Impaired Government Approval or (ii) within 60 days, take such lawful action as shall be necessary so that (A) such Impairment does not become final and non-appealable or otherwise irrevocable, (B) the effectiveness of such Impairment is postponed or (C) such Impairment is revoked, amended or modified so as to eliminate the reasonable possibility of such Material Adverse Effect.

(d) The Borrower shall issue such notices of transfer and shall take such other actions as the Agent, acting for the benefit of itself and the Lenders, reasonably requests, without undue expense or delay, to secure for the Agent and the Lenders the benefit of each Government Approval related to the Project set forth on Schedule 7.05(a) and, when obtained, Schedule 7.05(b) upon the exercise of remedies under the Security Documents.

(e) The Borrower shall at all times obtain and maintain in full force and effect all permits, licenses, trademarks, patents, agreements or Government Approvals necessary for the construction, operation and maintenance of the Project, except where failure to maintain such permits, licenses, trademarks, patents, agreements or Government Approvals could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

#### 8.04 Environmental Compliance.

(a) The Borrower shall (i) comply in all material respects with all Environmental Laws, including, without limitation, any Government Approvals required under any Environmental Laws and the environmental compliance and reporting requirements in connection with the FERC authorization referred to in Section 6.02(j) and (ii) conduct and complete any investigation, study, sampling and testing, and undertake any corrective, cleanup,

removal, response, remedial or other action necessary to identify, report, remove and clean up all Hazardous Materials Released at, on, in, under or from the Project, to the extent required by and in accordance with the requirements of all applicable Environmental Laws.

(b) The Borrower shall deliver to the Agent (with sufficient copies for each Lender) (i) notice of (A) any pending or threatened material Environmental Claim with respect to the Project and (B) information that could reasonably be expected to lead to a material Environmental Claim, in either case promptly upon obtaining knowledge thereof, describing the same in reasonable detail, together with such notice, or as soon thereafter as possible, a description of the action that the Borrower has taken or proposes to take with respect thereto and, thereafter, from time to time, such detailed reports with respect thereto as the Agent or any Lender may reasonably request and (ii) promptly upon their becoming available, copies of written communications with any Government Authority relating to any such material Environmental Claim and any such other matter as is reported to the Agent or the Lenders pursuant to this Section 8.04(b).

(c) The Borrower shall not Release, or permit the Release of Hazardous Materials at the Project in violation of applicable Government Rules and Government Approvals or so as to give rise to a material Environmental Claim or a material liability or obligation under any Environmental Law.

#### 8.05 Insurance; Events of Loss.

(a) Insurance Maintained by the Borrower, the EPC Contractor, the Anchor Tenants and the Operator. The Borrower shall (i) procure at its own expense and maintain in full force and effect and (ii) cause the Phase 1 EPC Contractor, each Phase 2 Construction Contractor, each Anchor Tenant (to the extent applicable), the Operator and each other Material Project Party to procure at such Person's own expense and maintain in full force and effect, the insurance set forth on Schedule 8.05 to this Agreement and any insurance required to be maintained by such Person pursuant to its applicable Project Document.

(b) Restoration Prior to Phase 2 Completion. Subject to Section 4.09 of the Collateral Agency Agreement, amounts to be made available to the Borrower from the Insurance Proceeds Account for Restoration following any Event of Loss that occurs prior to Phase 2 Completion shall be remitted to or as directed by the Borrower by the Collateral Agent to be used for Restoration in the event that the Net Available Amount for each Event of Loss is equal to or greater than \$5,000,000 if the Independent Engineer shall have delivered to the Agent a certificate to the effect that the sum of (i) the Net Available Amount deposited in the Insurance Proceeds Account plus (ii) the amount of Loss Proceeds already paid to the Phase 1 EPC Contractor plus (iii) other amounts deposited in the Insurance Proceeds Account by any Pledgor or other Persons is sufficient (together with all other monies reasonably expected to be available to the Borrower as determined by the Agent in consultation with the Independent Engineer, including amounts available to be drawn under this Agreement), in the reasonable opinion of the Independent Engineer, to complete such Restoration and to achieve Phase 1 Substantial Completion in accordance with the Phase 1 Construction Budget and Schedule and the Borrower's obligations under the TUAs then in effect, provided, that if the Independent Engineer is unable to provide such a certificate, such Net Available Amounts may be used for Restoration

upon receipt of written consent of the Majority Lenders (such consent to be given or withheld at the sole discretion of the Majority Lenders). Amounts made available to the Borrower under this Section 8.05(b) shall only be utilized for Restoration and, if not so utilized within 30 days of receipt thereof, shall be used to prepay the Loans.

(c) Restoration Following Phase 2 Completion

(i) Subject to Section 4.09 of the Collateral Agency Agreement, amounts to be made available to the Borrower from the Insurance Proceeds Account for Restoration following any Event of Loss that occurs following Phase 2 Completion shall be remitted to the Borrower by the Collateral Agent, in the event that the Net Available Amount is less than \$25,000,000 to be used for Restoration or (A) in the event that the failure by the Borrower to Restore the Affected Property could not reasonably be expected to result in a Material Adverse Effect and the Borrower and the Agent have received a certificate of the Independent Engineer certifying the same, for any purpose, at the discretion of the Borrower or otherwise or (B) to prepay the Loans.

(ii) Amounts to be made available to the Borrower from the Insurance Proceeds Account for Restoration following any Event of Loss that occurs following Phase 2 Completion shall be remitted to the Borrower by the Agent to be used for Restoration in the event that the Net Available Amount is equal to or greater than \$25,000,000 if the Independent Engineer shall have delivered to the Agent a certificate to the effect that the sum of (A) the Net Available Amount deposited in the Insurance Proceeds Account plus (B) other amounts deposited in the Insurance Proceeds Account by the Borrower, any Pledgor or other Persons is sufficient (together with all other monies reasonably expected to be available to the Borrower as determined by the Agent in consultation with the Independent Engineer, including amounts available to be drawn under this Agreement), in the reasonable opinion of the Independent Engineer to complete such Restoration, provided, that if the Independent Engineer is unable to provide such a certificate, such Net Available Amounts may be used for Restoration upon receipt of written consent of the Majority Lenders (such consent to be given or withheld at the sole discretion of the Majority Lenders). Amounts made available to the Borrower under this clause (ii) shall only be used for Restoration and, if not so utilized within 90 days of receipt thereof, shall be used to prepay the Loans.

8.06 Proceedings. The Borrower shall (a) promptly upon obtaining knowledge of each action, suit or proceeding at law or in equity by or before any Government Authority, arbitral tribunal or other body pending or threatened against the Borrower involving (i) claims against the Borrower or the Project in excess of \$10,000,000 individually or (ii) injunctive or declaratory relief and (b) promptly upon becoming aware of other circumstance, act or condition (including the adoption, amendment or repeal of any Government Rule or the Impairment of any Government Approval or written notice of the failure to comply with the terms and conditions of any Government Approval) which could reasonably be expected to result in a Material Adverse Effect, in each event described in clauses (a) and (b) above, furnish to the Agent a notice of such event describing it in reasonable detail and, together with such notice or as soon thereafter as possible, a description of the action that the Borrower has taken and proposes to take with respect to such event.

8.07 Taxes. The Borrower shall pay and discharge all Taxes imposed on the Borrower or on its income or profits or on any of its Property prior to the date on which any penalties may attach; provided, that the Borrower shall have the right to Contest the validity or amount of any such Tax. The Borrower shall promptly pay any valid, final judgment rendered upon the conclusion of the relevant Contest, if any, enforcing any such Tax and cause it to be satisfied of record.

8.08 Books and Records; Inspection Rights. The Borrower shall keep proper books of record in accordance with GAAP and permit representatives and advisors of the Agent or any Lender, upon reasonable notice to the Borrower, to visit and inspect its properties, to examine, copy or make excerpts from its books, records and documents (at the expense of the Borrower) and to discuss its affairs, finances and accounts with its principal officers, engineers and independent accountants, all at such times during normal business hours as such representatives may reasonably request.

8.09 Use of Proceeds.

(a) The Borrower shall use the proceeds of the Loans as follows: (i) to pay Phase 1 Project Costs with Phase 1 Loans, (ii) to pay Phase 2 Project Costs with Phase 2 Loans or with the proceeds of the Phase 1 Loan made on the Final Funding Date and not required to be transferred to the Phase 1 Punchlist Retention Subaccount or Phase 1 Construction Payment Subaccount, (iii) to pay Phase 1 Project Costs reasonably and necessarily incurred by the Borrower that are not included in the Phase 1 Construction Budget and Schedule solely to the extent of the Contingency relating to Phase 1, (iv) to pay Phase 2 Project Costs reasonably and necessarily incurred by the Borrower that are not included in the Phase 2 Construction Budget and Schedule solely to the extent of the Contingency relating to Phase 2, (v) to pay Debt Service, (vi) to fund the Debt Service Reserve Account up to the Required Debt Service Reserve Amount, (vii) with respect to any Loan made prior to the Term Conversion Date, to pay Operation and Maintenance Expenses, (viii) to repay any Subordinated Indebtedness outstanding on the Effective Date together with any accrued interest thereon in an amount not to exceed \$38,500,000, (ix) to make a distribution as provided in Section 8.12(vi) and (x) with respect to the initial Phase 2 Loan, to reimburse the Borrower, the Pledgors or any Affiliate of the Pledgors for any Phase 2 Project Costs paid by or on behalf of the Borrower prior to the initial borrowing of a Phase 2 Loan.

(b) The Borrower shall use the proceeds of each Loan solely for the costs and expenses specified in the related Notice of Borrowing and any related certificates delivered by the Borrower in connection therewith.

8.10 Maintenance of Lien. The Borrower shall grant a security interest in the Borrower's interest in all Project assets and Project Documents acquired or entered into, as applicable, from time to time and shall take, or cause to be taken, all action reasonably required to maintain and preserve the Liens created by the Security Documents to which it is a party and the priority of such Liens. The Borrower shall from time to time execute or cause to be executed any and all further instruments (including financing statements, continuation statements and similar statements with respect to any Security Document) reasonably requested by the Agent for such purposes. The Borrower shall promptly discharge at the Borrower's cost and expense, any

Lien (other than Permitted Liens) on the Collateral. Without limiting the foregoing, the Borrower shall cause any Person holding any direct equity interest in the Borrower (including transfers thereof) to execute a Pledge Agreement substantially in the form of Exhibit E.

#### 8.11 Prohibition of Fundamental Changes.

(a) The Borrower shall not change its legal form, amend its Partnership Agreement (except any amendments in connection with permitted sales or transfers of ownership interests in the Borrower, provided, that the Borrower shall have delivered to the Agent a copy of such amendment together with a certificate of an Authorized Officer of the Borrower certifying that no changes have been made to the Partnership Agreement other than such changes as are necessary solely to reflect the change in ownership) or any other organizational document, merge into or consolidate with, or acquire all or any substantial part of the assets or any class of stock of (or other equity interest in), any other Person and shall not liquidate or dissolve. The Borrower shall not convey, sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions, any assets in excess of \$3,000,000 per year except: (i) sales of assets no longer used or useful in the Borrower's business in the ordinary course of the Borrower's business, (ii) sales, transfers or other dispositions of Permitted Investments, (iii) Restricted Payments made in accordance with the Financing Documents, (iv) sales of Services in the ordinary course of business and (v) sales of surplus retained Gas obtained by the Borrower under the TUAs as well as LNG used for testing, commissioning and cool down and the Gas produced from said LNG. The Borrower shall not issue any equity interests (or enter into any option agreement, subscription agreement or other agreement for the issuance of any equity interests) in the Borrower to any Person, except to (A) any Person who shall be an Approved Transferee at the time such equity interests are issued or (B) any Person reasonably acceptable to the Lenders, who in either case has executed and delivered to the Collateral Agent a Pledge Agreement substantially in the form of Exhibit E for the benefit of the Secured Parties and provided such other instruments as reasonably requested by the Agent; provided, that such equity issuance under either clause (A) or (B) shall not cause a Default, including under Section 9.01(t).

(b) The Borrower shall not purchase or acquire any assets other than: (i) the purchase of assets reasonably required for the completion of the Project as contemplated by the Transaction Documents, and in any event in accordance with applicable Government Approvals and applicable Government Rules and as contemplated by the Phase 1 Construction Budget and Schedule and Phase 2 Construction Budget and Schedule, (ii) the purchase of assets reasonably required in connection with Restorations in accordance with Section 8.05(b) or 8.05(c), (iii) the purchase of assets in the ordinary course of business reasonably required in connection with the operation and maintenance of the Project contemplated by the Transaction Documents, (iv) the purchase of assets reasonably required in connection with Permitted Capital Expenditures and (v) Permitted Investments.

8.12 Restricted Payments. The Borrower shall not make, or agree to pay or make, directly or indirectly, any Restricted Payment, except that the Borrower may (a) repay Subordinated Indebtedness in accordance with Section 8.09(a)(viii) and (b) on any Quarterly Date following the Term Conversion Date, make a Restricted Payment in cash from and to the extent of cash then on deposit in the Distribution Account, subject to the satisfaction of each of

the following conditions on the date of such Restricted Payment (a "Restricted Payment Date") and after giving effect thereto:

- (i) the first Principal Payment Date shall have occurred or shall be concurrent with the proposed Restricted Payment Date;
- (ii) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence of such Restricted Payment;
- (iii) the Debt Service Reserve Account is fully funded in an amount at least equal to the Required Debt Service Reserve Amount;
- (iv) the Debt Service Coverage Ratio for the most recent calendar quarter is not less than 1.25 to 1.0;

(v) the Borrower shall have delivered to the Agent, at least five Business Days prior to the proposed Restricted Payment Date, a certificate of the Borrower executed by an Authorized Officer dated the Restricted Payment Date:

(A) to the effect that each of the foregoing conditions shall have been satisfied as at such Restricted Payment Date; and

(B) setting out in reasonable detail the calculations for computing the Debt Service Coverage Ratio for the relevant period and stating that such calculations were prepared in good faith and were based on reasonable assumptions.

The Borrower shall be permitted to make a one-time Restricted Payment of any balance standing to the credit of the Phase 2 Construction Account after the Phase 1 Final Completion and Phase 2 Completion has occurred if (A) each of the conditions in paragraphs (i) to (v) of this paragraph (b) are satisfied and (B) the Agent shall have received a certificate of the Independent Engineer dated as of the date of the proposed Restricted Payment, reasonably satisfactory to the Agent, certifying (aa) that Phase 1 has achieved Phase 1 Final Completion, (bb) that Phase 2 has achieved Phase 2 Completion and (cc) Phase 2 has successfully passed the performance test in accordance with the test procedures and test criteria set forth in Appendix I to Exhibit C-4, which certificate shall be substantially in the form of Exhibit C-4.

8.13 Liens. The Borrower shall preserve and maintain good and valid title to, or rights in, the Collateral and its Property and shall not create, incur, assume or suffer to exist any Lien on any of the Collateral or any of its other Property except:

(a) (i) Liens, pledges or deposits under worker's compensation, unemployment insurance or other social security legislation (other than ERISA), (ii) Liens imposed by any Government Authority for Taxes that are not yet due or that are being Contested, or (iii) Mechanics' Liens arising in the ordinary course of business or incident to the Development or any Restoration, in each case, in respect of obligations that are not yet due or that are being Contested,



(b) minor defects, easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business and encumbrances, licenses, restrictions on the use of property or minor imperfections in title that (i) do not (A) materially impair the property affected thereby for the purpose for which title was acquired or (B) interfere with the Development of the Project and (ii) that individually or in the aggregate could not reasonably be expected to result in a Material Adverse Effect,

(c) Liens created pursuant to the Original Credit Agreement or this Agreement, as applicable, and the Security Documents,

(d) Liens incurred in connection with Indebtedness permitted under clauses (c) and (d) of Section 8.16,

(e) Liens which are exceptions to the Title Policy on the Effective Date, and

(f) pledges or deposits to secure the performance of (i) bids, trade contracts (other than for borrowed money), operating leases, statutory obligations, surety bonds, performance bonds, letters of credit and other obligations of a like nature incurred in the ordinary course of business in an aggregate amount not greater than \$15,000,000 or (ii) appeal bonds and letters of credit in an aggregate amount not in excess of \$30,000,000 issued for the benefit of suppliers of LNG to be used in the cool down of the Project.

8.14 Investments. The Borrower shall not make, and shall not instruct the Collateral Agent to make, any Investments except Permitted Investments.

8.15 Hedging Arrangements.

(a) No later than 5 days following the Effective Date, the Borrower shall enter into and thereafter maintain in full force and effect, from time to time, one or more Permitted Swap Agreements (in form and substance satisfactory to the Agent), provided, that, on the Term Conversion Date, the Permitted Swap Agreements shall amount to no less than \$700,000,000 and no more than \$1,500,000,000 and shall be placed in accordance with a schedule substantially similar to Schedule 8.15(a).

(b) The Borrower shall not enter into any Hedging Agreements other than Permitted Swap Agreements.

8.16 Indebtedness. The Borrower shall not directly or indirectly create, incur, assume, suffer to exist or otherwise be or become liable with respect to any Indebtedness except:

(a) Indebtedness created pursuant to this Agreement,

(b) unsecured Indebtedness of the Borrower incurred to finance working capital and other general corporate purposes; provided, that such Indebtedness shall be used (i) to finance working capital in an amount not to exceed \$20,000,000 or (ii) for general corporate purposes (including leases and sale-leaseback transactions) in an

amount not to exceed \$10,000,000 (in addition to the leases permitted pursuant to paragraph (c) of this Section 8.16),

(c) purchase money or Capital Lease Obligations to the extent incurred in the ordinary course of business to finance the acquisition or licensing of intellectual property or items of equipment (and Indebtedness incurred to finance any such obligations); provided, that (i) if such obligations are secured, they are secured only by Liens upon the equipment or intellectual property being financed and (ii) the aggregate principal amount and the capitalized portion of such obligations do not at any time exceed \$5,000,000 in the aggregate,

(d) Indebtedness in respect of the Permitted Swap Agreements,

(e) other unsecured Indebtedness for borrowed money subordinated to the Secured Obligations pursuant to an instrument in writing satisfactory in form and substance to the Majority Lenders or substantially in the form of Exhibit F,

(f) reimbursement obligations with respect to letters of credit to secure the purchase of LNG for cool down of the Project in the aggregate amount not greater than \$30,000,000, and

(g) any Indebtedness created pursuant to the agreements between the Borrower and the Title Company dated February 23, 2005 and July 21, 2006,

provided, that the Borrower may only incur the Indebtedness referred to in paragraph (b), (c) or (e) above following the Term Conversion Date.

#### 8.17 Nature of Business.

(a) The Borrower shall not engage in any business other than the Development and any activities incidental thereto.

(b) The Borrower shall not permit to exist any Subsidiary of the Borrower.

(c) The Borrower shall not directly or by way of derivative or synthetic transactions engage in the sale, trading or hedging of Gas or LNG or any related product or by-product except with respect to (i) acquiring and selling LNG for the testing, commissioning and cool down of the Project, in the case of Phase 1 pursuant to the Phase 1 EPC Contract and, in the case of Phase 2, for the purposes of achieving Phase 2 Completion and selling the Gas resulting therefrom, (ii) selling LNG or Gas after the failure of a customer to take delivery as contemplated by a TUA and (iii) selling LNG or Gas derived from retainage in accordance with a TUA that is excess to the Borrower's requirements to perform the Services.

(d) The Borrower shall not employ or engage any employees nor enter into any contractual or other arrangements with any Person that would require the Borrower to be subject to or to comply with ERISA or any other Government Rule concerning labor, employment, wages or worker benefits.

8.18 Project Construction: Maintenance of Properties.

(a) The Borrower shall cause the Project to be constructed and completed substantially in accordance with, and otherwise take such actions in respect of the Project as are required by, Prudent Industry Practices, applicable Government Rules, the Phase 1 EPC Contract, each Phase 2 Construction Contract, the Phase 1 Construction Budget and Schedule, the Phase 2 Construction Budget and Schedule and the other relevant Project Documents.

(b) The Borrower shall maintain and preserve the Project and all of its other material Properties necessary or useful in the proper conduct of its business in good working order and condition (ordinary wear and tear excepted), substantially in accordance with Prudent Industry Practices, the Project Documents and the operating manuals. The Borrower shall operate (or cause to be operated) the Project substantially in accordance with Prudent Industry Practices, the Project Documents, the Operating Budget and the operating manuals.

(c) The Borrower shall not make any Capital Expenditures except Permitted Capital Expenditures. All assets or property built or acquired with Capital Expenditures shall be part of the Collateral.

8.19 Construction Reports. Prior to Phase 1 Substantial Completion, together with the submission of each Borrowing Certificate, the Borrower shall deliver to the Agent a Construction Report, substantially in the form of Exhibit G-1 or Exhibit G-2, as applicable, in form and substance satisfactory to the Agent and the Independent Engineer, accompanied by a certificate of an Authorized Officer of the Borrower setting forth in reasonable detail:

(a) in the case of a Borrowing Certificate for a Phase 1 Loan:

(i) estimated dates on which Ready for Cool Down, Ready for Performance Testing and Phase 1 Substantial Completion shall be achieved,

(ii) the Borrower's then-current estimate of anticipated Phase 1 Project Costs through Ready for Cool Down, Ready for Performance Testing and Phase 1 Substantial Completion as compared to the Phase 1 Construction Budget and Schedule and reasons for material variances, and in the event of a material variance, the reasons therefor, and such other information reasonably requested by Agent,

(iii) any occurrence of which the Borrower is aware that could reasonably be expected to (i) increase the total Phase 1 Project Costs above those set forth in the Phase 1 Construction Budget and Schedule, (ii) delay Phase 1 Substantial Completion beyond the Guaranteed Substantial Completion Date or (iii) have a Material Adverse Effect,

(iv) if Phase 1 Substantial Completion is not anticipated to occur on or before the Guaranteed Substantial Completion Date (as such term is defined in the Phase 1 EPC Contract), the reasons therefor (and a schedule recovery plan),

(v) the status of construction of Phase 1, including progress under the Phase 1 EPC Contract (and a description of any material defects or deficiencies with respect thereto) and the proposed construction schedule for the following month,

(vi) the status of the Government Approvals necessary for the Development, including the dates of applications submitted or to be submitted and the anticipated dates of actions by Government Authorities with respect to such Government Approvals, and

(vii) a listing of reportable environmental, health and safety incidents as well as any unplanned related impacts, events, accidents or issues that occurred during the report period and the compliance with or liabilities under Environmental Laws;

(b) in the case of a Borrowing Certificate for a Phase 2 Loan:

(i) the estimated date on which Phase 2 Completion shall be achieved,

(ii) the Borrower's then-current estimate of anticipated Phase 2 Project Costs for the following 360 days as compared to the Phase 2 Construction Budget and Schedule and reasons for material variances, and in the event of a material variance, the reasons therefor, and such other information reasonably requested by Agent,

(iii) any occurrence of which the Borrower is aware that could reasonably be expected to have a Material Adverse Effect,

(iv) the status of construction of Phase 2, including progress under each of the Phase 2 Construction Contracts,

(v) the status of the Government Approvals necessary for the Development, including the dates of applications submitted or to be submitted and the anticipated dates of actions by Government Authorities with respect to such Government Approvals, and

(vi) a listing of reportable environmental, health and safety incidents as well as any unplanned related impacts, events, accidents or issues that occurred during the report period and the compliance with or liabilities under Environmental Laws;

If during any fiscal quarter of the Borrower prior to Term Conversion Date there are no Loans requested, by the final Business Day of the month following the end of such fiscal quarter the Borrower shall deliver to the Agent each of the above-referenced Construction Reports and certificates.

(a) Phase 1. The Borrower shall not:

(i) initiate or consent to (without the consent of the Majority Lenders in consultation with the Independent Engineer) any change in the description of work under the Phase 1 EPC Contract that, directly or indirectly, could be reasonably expected to or in fact does:

(A) increase the contract price of the Phase 1 EPC Contract as of the Effective Date; provided, that (1) the Borrower may, without the consent of the Majority Lenders, enter into any Phase 1 Change Order or make payment of any claim under the Phase 1 EPC Contract, if (aa) such increase is with respect to identified and unused allowances under the Phase 1 EPC Contract, or the amount of any such Phase 1 Change Order or payment is less than \$5,000,000 and the aggregate of all such Phase 1 Change Orders or payments is less than \$15,000,000 and (bb) the Agent has received a certificate of the Independent Engineer confirming that after giving effect to such Phase 1 Change Orders or payments (x) the ability of the Borrower to achieve Phase 1 Substantial Completion in accordance with the Phase 1 Construction Budget and Schedule has not been adversely and materially affected and (y) no cost overruns shall have occurred and be continuing which could reasonably be expected to result in Phase 1 Project Costs exceeding the funds then available to pay such Phase 1 Project Costs; (2) if an event of force majeure, Change in Law or Borrower-Caused Delay (as described in the Phase 1 EPC Contract) prompts the Phase 1 EPC Contractor to request a Phase 1 Change Order to which it is entitled under the terms of the Phase 1 EPC Contract, the Borrower shall be entitled to authorize such change without first obtaining the consent of the Lenders if the amount of such change is within the remaining Contingency set forth in the Phase 1 Construction Budget and Schedule; and (3) the Borrower may enter into any Phase 1 Change Order under the Phase 1 EPC Contract for amounts in excess of the amounts specified in clause (A)(1) above; provided, that (I) the Borrower or any other Person on behalf of the Borrower shall have transferred to the Collateral Agent for deposit to the Phase 1 Construction Account an amount sufficient to pay the maximum amount that may become due and payable pursuant to such Phase 1 Change Order provided, that no such deposit shall be required in connection with any such Phase 1 Change Order the amount and subject matter of which is included as a Contingency line item or which constitutes a utilization of any portion of the unallocated Contingency reflected in the Phase 1 Construction Budget and Schedule delivered on the Effective Date and (II) the Agent shall have received a certificate of the Independent Engineer confirming that after giving effect to such Phase 1 Change Order or payments (X) the ability of the Borrower to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date has not been materially adversely affected and (Y) such Phase 1 Change Order will not result in Phase 1 Project Costs exceeding the funds then available to pay such Phase 1 Project Costs; for avoidance of doubt, nothing contained in this clause 8.20(A)(1) shall be deemed to amend or modify any other requirement contained in this Agreement to obtain the consent of the Lenders, the Agent and/or Independent Engineer for any increase in Project Costs or use of proceeds of the Loans;

(B) extend the Guaranteed Substantial Completion Date or adversely affect the likelihood of achieving Phase 1 Substantial Completion by such date;

(C) except as a result of a buydown of the Performance Guarantees pursuant to Section 11.5 of the Phase 1 EPC Contract which is otherwise permitted pursuant to the terms hereof, modify the Performance Guarantees, any other performance guarantee of the Phase 1 EPC Contractor or the criteria or procedures for the conduct or measuring the results of the Performance Tests (as each capitalized term used in this clause and not otherwise defined in this Agreement is defined in the Phase 1 EPC Contract);

(D) adjust the Payment Schedules (other than as a result of a Phase 1 Change Order permitted by Section 8.20(a)(i) or otherwise permitted by this Agreement), or adjust the amount of or timing of the payment of the Schedule Bonus (as each such term is defined in the Phase 1 EPC Contract) (other than in the manner contemplated by the Phase 1 Change Order substantially in the form attached hereto as Exhibit M) or agree to any additional bonus to be paid to the Phase 1 EPC Contractor;

(E) cause any material component or material design feature or aspect of Phase 1 to materially deviate in any fundamental manner from the description thereof set forth in the schedules, exhibits, appendices or annexes to the Phase 1 EPC Contract (other than as the result of a Phase 1 Change Order for an amount not greater than \$35,000,000 which is permitted by Section 8.20(a)(i) or otherwise permitted by this Agreement);

(F) diminish or otherwise alter in any material respect any Phase 1 EPC Contractor's liquidated damages obligations under the Phase 1 EPC Contract;

(G) waive or alter the provisions under the Phase 1 EPC Contract relating to default, termination or suspension or the waiver by the Borrower of any event that, with the giving of notice or the lapse of time or both, would entitle the Borrower to terminate the Phase 1 EPC Contract; or

(H) otherwise materially diminish, lessen or waive in any manner any material liability, obligation or undertaking of the Phase 1 EPC Contractor under the Phase 1 EPC Contract.

(ii) approve any remedial plan under Section 11 of the Phase 1 EPC Contract;

(iii) without limiting any restrictions set forth in Section 8.20(a)(i) or (ii) above, issue, direct, authorize, consent to or suffer the occurrence of, any

variation, Phase 1 Change Order, amendment or modification or suspension of or to the Phase 1 EPC Contract that, directly or indirectly, constitutes or could reasonably be expected to result in a Material Adverse Effect; and

(iv) certify to, consent to or otherwise request or permit through a Phase 1 Change Order or otherwise without the consent of the Majority Lenders (in consultation with the Independent Engineer) the occurrence of Phase 1 Substantial Completion, Phase 1 Final Completion, Ready for Performance Testing or Ready for Cool Down or make any election to take care, custody and control of Phase 1 (or any portion thereof) pursuant to Section 11.5B (or any other provision thereof) of the Phase 1 EPC Contract; provided, however, that the Agent shall use reasonable efforts to promptly review relevant documentation provided to it by the Borrower.

(b) Phase 2.

(i) The Borrower shall not initiate or consent to (without the consent of the Majority Lenders in consultation with the Independent Engineer) any change in the description of work under any Phase 2 Construction Contract that, directly or indirectly, could be reasonably expected to or in fact then does increase Phase 2 Project Costs to an amount in excess of the Phase 2 Allocation; provided, that the Borrower may, without the consent of the Majority Lenders, enter into any Phase 2 Change Order or make payment of any claim under any Phase 2 Construction Contract, if the Agent has received a certificate of (A) the Independent Engineer confirming that after giving effect to such Phase 2 Change Orders or payments (1) the ability of the Borrower to achieve Phase 1 Substantial Completion in accordance with the Phase 1 Construction Budget and Schedule has not been adversely and materially affected and (2) that the remaining aggregate unused amount of the Commitments and the amount of any other funds committed in writing by a Pledgor, any Affiliate of a Pledgor or a financial institution in the form of equity or Subordinated Indebtedness is sufficient, in the reasonable judgment of the Independent Engineer (as to the sufficiency of such amount only), to achieve Phase 1 Substantial Completion on or prior to the Guaranteed Substantial Completion Date and to achieve Phase 2 Completion and (B) the Borrower confirming that after giving effect to such Phase 2 Change Orders or payment it will be in compliance with the Financing Documents; and

(ii) without limiting any restrictions set forth in Section 8.20(b)(i) above, issue, direct, authorize, consent to or suffer the occurrence of, any variation, Phase 2 Change Order, amendment or modification or suspension of or to any Phase 2 Construction Contract that, directly or indirectly, constitutes or could reasonably be expected to result in a Material Adverse Effect.

8.21 Project Documents, Etc.

(a) The Borrower shall (i) perform and observe in all material respects all of its covenants and obligations contained in each of the Project Documents, (ii) take all reasonable and necessary action to prevent the termination or cancellation of any Project Document in

accordance with the terms of such Project Documents or otherwise (except for the expiration of any Project Document in accordance with its terms and not as a result of a breach or default thereunder) and (iii) enforce against the relevant Project Party each material covenant or material obligation of each Project Document to which such Person is a party in accordance with its terms, except in each of clauses (i), (ii) or (iii) with respect to any Non-Material Project Document or Other Project Document any such act or failure to act, perform, observe, enforce, terminate or cancel which could not reasonably be expected to have a Material Adverse Effect or materially and adversely affect the Borrower's rights, duties, obligations or liabilities under any TUA with an Anchor Tenant.

(b) The Borrower shall not, without the prior written consent of the Majority Lenders in consultation with the Independent Engineer, (i) suspend, cancel or terminate any Project Document or consent to or accept any cancellation or termination thereof, (ii) sell, transfer, assign (other than pursuant to the Security Documents) or otherwise dispose of (by operation of law or otherwise) or consent to any such sale, transfer, assignment or disposition of any part of its interest in any Project Document (other than the sub-license of any Phase 1 EPC Contract or Phase 2 Construction Contract-related intellectual property rights to an Affiliate of the Borrower), (iii) waive any material default under, or material breach of, any Project Document or waive, fail to enforce, forgive, compromise, settle, adjust or release any material right, interest or entitlement, howsoever arising, under, or in respect of, any Project Document, (iv) initiate or settle a material arbitration proceeding under any Project Document, (v) agree to or petition, request or take any other material legal or administrative action that seeks, or may reasonably be expected, to Impair any Project Document or (vi) amend, supplement or modify or in any way vary, or agree to the variation of, any material provision of a Project Document or of the performance of any material covenant or obligation by any other Person under any Project Document (other than (x) Phase 1 Change Orders or Phase 2 Change Orders, which Phase 1 Change Order and Phase 2 Change Order protocol is addressed in Section 8.20, and (y) amendments, modifications, supplements or variations with respect to Non-Material Project Documents or Other Project Documents, in each case relating to Phase 2). Notwithstanding the preceding sentence, the Borrower may, with prior written notice to the Agent, take any of the actions described in clauses (i) or (iii) through (vi) inclusive with respect to Other Project Documents or in clauses (i) through (vi) with respect to Non-Material Project Documents, which could not reasonably be expected to have a Material Adverse Effect or materially and adversely affect the Borrower's rights, duties, obligations or liabilities under any TUA with an Anchor Tenant.

(c) Subject to the next sentence of this paragraph (c), the Borrower shall not enter into any Additional Project Document without the prior written consent of the Majority Lenders in consultation with the Independent Engineer (which consent shall not be unreasonably withheld). Notwithstanding the prior sentence, the Borrower may, with prior written notice to the Agent, enter into any Non-Material Project Document or Other Project Document including a Project Document of the type described in Section 8.24(d), provided that such new Non-Material Project Document or Other Project Document (i) could not reasonably be expected to have a Material Adverse Effect or materially and adversely affect the Borrower's rights, duties, obligations or liabilities under any TUA with an Anchor Tenant (including, for the avoidance of doubt, triggering the provisions of Article 13 of the Omnibus Agreement with Total USA LNG, Inc.) and (ii) the Agent shall have received a certificate of an Authorized Officer of the Borrower



certifying as to the items set forth in clause (i) of this paragraph (c). The Borrower must obtain the requisite Ancillary Documents prior to, or contemporaneously with, the execution of any Additional Project Document.

(d) The Borrower shall cause all Project Revenues received from any Project Party or any other Person to be deposited in the Revenue Account. Without limiting the Borrower's obligation to procure all Consent and Agreements, the Borrower shall send a letter (on the Borrower's letterhead and signed by an Authorized Officer of the Borrower) notifying each other Project Party not party to a Consent and Agreement (i) that its Project Document and all associated documents and obligations have been pledged as collateral security to the Secured Parties and are subject to the Secured Parties' Lien on such Property and (ii) if such Project Party's Project Document requires any payment of Project Revenues specified in clause (a) of the definition of Project Revenues that, in addition to the assignment specified in clause (i) above, it shall pay all such "Project Revenues" directly into the Revenue Account.

(e) The Borrower shall furnish the Agent, the Independent Engineer and the Lenders with (i) certified copies of (A) all amendments, supplements or modifications of any Material Project Documents and Other Project Documents and (B) all Additional Project Documents and (ii) all Ancillary Documents relating to any Additional Project Document, in each case, promptly after execution and delivery of such documents to the Borrower.

(f) The Borrower shall not permit any counterparty to a Project Document to substitute, diminish or otherwise replace any performance security, letter of credit or guarantee supporting such counterparty's obligations thereunder (except with respect to Non-Material Project Documents or Other Project Documents if such permission could not reasonably be expected to result in a Material Adverse Effect).

8.22 Operating Budgets. The Borrower shall, on or prior to the commencement of commercial operations, adopt an Operating Budget for the period from such date to the conclusion of the then current fiscal year (and for each month during such period), and, prior to the beginning of each fiscal year of the Borrower thereafter, the Borrower shall adopt an Operating Budget for the succeeding fiscal year (and for each month during such period) which such Operating Budget shall be prepared and observed substantially in accordance with the standards set forth in Section 3.7 of the O&M Agreement. Copies of the proposed Operating Budget, together with a comparison of the costs in the proposed Operating Budget with the costs set forth in the Operating Budget for the current fiscal year and an explanation of the reasons for any significant increase or decrease in any category shall be furnished to the Agent at least 60 days before the beginning of the fiscal year to which such proposed Operating Budget applies.

8.23 Operating Statements and Reports. The Borrower shall furnish to the Agent and the Independent Engineer quarterly, not more than 30 days after the end of the last month of each quarter, commencing with the close of the first full fiscal quarter after the Term Conversion Date, an operating statement of the Project for such quarterly period and for the portion of the Borrower's fiscal year then ended, and, not more than 120 days after the end of each fiscal year of the Borrower, an operating statement of the Project for such fiscal year. Such operating statements shall correspond to the classifications and monthly periods of the current annual Operating Budget and shall show all Project Revenues and all expenditures for Operation

and Maintenance Expenses. The quarterly operating statement shall include (a) updated estimates of Operation and Maintenance Expenses for the balance of such fiscal year to which the operating statement relates, (b) any material developments during such fiscal quarter which could reasonably be expected to have a Material Adverse Effect, (c) summary of statistical data relating to the operation of the Project during such fiscal quarter and (d) the cause, duration and projected loss of Project Revenues attributable to each scheduled and unscheduled interruption in the Services by the Project during such fiscal quarter and, with respect to any interruptions caused by a material defect or failure, the cause of and cost to repair such defect or failure. Both the quarterly and annual operating statements shall be certified as materially complete and correct by an Authorized Officer of the Borrower. Each operating statement will be accompanied by a statement of sources and uses of funds for the periods covered by it and a discussion of the reason for any material variance from the amount budgeted therefor in the relevant Operating Budget.

8.24 Transactions with Affiliates. The Borrower shall not directly or indirectly enter into any transaction that is otherwise permitted hereunder with or for the benefit of an Affiliate (including guarantees and assumptions of obligations of an Affiliate) except (a) to the extent required by applicable Government Rule, (b) the transactions listed on Appendix D, (c) upon terms no less favorable to the Borrower than would be obtained in a comparable arm's-length transaction with a Person that is not an Affiliate or (d) for any processing agreement with an Affiliate of the Borrower for the uncommitted capacity of the Project, provided that the terms of such agreement provide for the recovery of at least the incremental Operation and Maintenance Expenses associated with operations pursuant to such agreement and such agreement complies with the second sentence of Section 8.21(c). Prior to entering into any agreement with an Affiliate, the Borrower shall deliver to the Agent a certificate of an Authorized Officer of the Borrower describing such transaction in reasonable detail and certifying as to the condition set forth in clause (b), (c) or (d) of this Section 8.24.

8.25 Other Documents and Information. The Borrower shall furnish the Agent (with sufficient copies for each Lender):

(a) promptly after the filing thereof, a copy of each filing made by the Borrower with FERC, except such as are routine or ministerial in nature; and promptly after obtaining knowledge thereof, a copy of each filing with respect to the Project made with FERC by any Person other than the Borrower, except for such filings as are routine or ministerial in nature in any proceeding before FERC in which the Borrower is the captioned party or respondent;

(b) promptly after the filing thereof, a copy of each filing, certification, waiver, exemption, claim, declaration, or registration made with respect to Government Approvals to be obtained or filed by the Borrower with any Government Authority, other than such filings, certifications, waivers, exemptions, claims, declarations, or registrations that are routine or ministerial in nature and in respect of which a failure to file could not reasonably be expected to have a Material Adverse Effect;

(c) promptly after receipt or publication thereof, a copy of each Government Approval obtained by the Borrower; and

(d) promptly upon obtaining knowledge thereof, a description of each material change in the status of any Government Approval identified on Schedule 7.05(a) and Schedule 7.05(b).

8.26 Debt Service Coverage Ratio. The Borrower shall not permit the Debt Service Coverage Ratio as of the end of any calendar quarter beginning with the second calendar quarter following the Term Conversion Date to be less than 1.15 to 1.00.

8.27 Cooperation. The Borrower shall perform such acts as are reasonably requested by the Agent to carry out the intent of, and transactions contemplated by, this Agreement and the other Financing Documents. The Borrower will cooperate with and provide all necessary information available to it on a timely basis to the Independent Engineer and the Insurance Advisor so that the Independent Engineer and the Insurance Advisor may complete and deliver the reports as required herein.

8.28 Auditors. The Borrower shall appoint and maintain as auditor UHY/Mann, Frankfort, Stein and Lipp CPAs LLC (or such other auditor as is reasonably acceptable to the Agent) to audit financial statements.

8.29 Accounts. The Borrower shall not open or maintain, or permit or instruct any other Person to open or maintain on its behalf, any account other than the Collateral Accounts.

8.30 Guarantees. The Borrower shall not directly or indirectly create, incur or assume or otherwise be or become liable with respect to any Guarantee, except as any such Guarantee is Permitted Indebtedness.

8.31 Events of Abandonment. The Borrower shall not cause or permit a Phase 2 Event of Abandonment without the prior consent of the Majority Lenders.

8.32 GAAP. The Borrower shall not change accounting or financial reporting policies, except as required to comply with GAAP.

8.33 Terminal Use Agreements.

The Borrower shall not issue to any Anchor Tenant any notice to commence, or otherwise commence, operations under a TUA without the prior consent of the Agent, which such consent shall be provided upon the receipt of a certificate from the Independent Engineer certifying that (i)(A) Phase 1 Substantial Completion has occurred or (B) that Phase 1 has been completed to the extent required for the Borrower to meet its obligations under such TUA and each other TUA then in effect and (ii) if Phase 1 Substantial Completion has not been achieved, the Operations Activity (as defined in the Phase 1 EPC Contract) or other transfer of care, custody and control to the Borrower shall not materially interfere with the Phase 1 EPC Contractor's performance of its obligations under the Phase 1 EPC Contract so as to trigger the Phase 1 EPC Contractor's rights to cease Operations Activity pursuant to Section 11.8A of the Phase 1 EPC Contract or get a Phase 1 Change Order, which such certification, in the case of clause (ii), shall be countersigned by the Phase 1 EPC Contractor. The Borrower shall not, without the prior consent of the Agent, select a window period pursuant to Section 6.2 of the

Total TUA which shall terminate prior to (i) the date Phase 1 Substantial Completion is expected to occur pursuant to the Phase 1 Construction Budget and Schedule then in effect or (ii) the date on which Phase 1 has been completed to the extent required for the Borrower to meet its obligations under the Total TUA and each other TUA then in effect, as certified by the Independent Engineer.

8.34 Updated Surveys and Title Policies.

(a) Surveys. The Borrower shall promptly, and in any event no later than 30 days following Phase 1 Final Completion and Phase 2 Completion, deliver to the Agent a survey of the Site of the Project certified to the Borrower, the Title Company and the Agent, updated, with respect to all relevant requirements and information required for the initial Survey, to within 30 days of the date of receipt by the Agent.

(b) Title Policies. The Borrower shall cause the Title Company to deliver to the Agent an endorsement of the Title Policy: (i) promptly and in any event no later than 30 days after Phase 2 Completion, deleting any exception in connection with pending disbursements; (ii) promptly and in any event no later than 30 days after each of Phase 1 Final Completion and Phase 2 Completion, deleting (A) any exception with respect to mechanics' and materialmen's liens and (B) any exception with respect to survey matters.

8.35 Certificate of Occupancy. (a) On or prior to the date of Phase 1 Final Completion, the Borrower shall deliver to the Agent a certified copy of a permanent and unconditional certificate of occupancy permitting the fully functioning operation and occupancy of the Site issued by the Government Authority having jurisdiction over the Site if such a certificate is required by any Governmental Rule for the Development, in form and substance acceptable to the Agent and (b) on or prior to the date of Phase 2 Completion, the Borrower shall deliver to the Agent a certified copy of a permanent and unconditional certificate of occupancy permitting the fully functioning operation and occupancy of the Site issued by the Government Authority having jurisdiction over the Site if such a certificate is required by any Governmental Rule for the Development, in form and substance acceptable to the Agent.

8.36 Lien Waivers. (a) Within 60 days of Phase 1 Final Completion, promptly following the receipt thereof, the Borrower shall deliver to the Agent the final unconditional lien waivers with respect to all Work (as defined in the Phase 1 EPC Contract) from the Phase 1 EPC Contractor and each of the Major Sub-Contractors and Major Sub-Subcontractors (each as defined in the Phase 1 EPC Contract) and (b) Within 60 days of Phase 2 Completion, the Borrower shall deliver to the Agent the final unconditional lien waivers as contemplated by each Phase 2 Construction Contract in respect of all work (including services performed and materials provided) in connection with Phase 2 from each Phase 2 Construction Contractor and each of their principal subcontractors and principal sub-subcontractors.

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## ARTICLE IX

### EVENTS OF DEFAULT

9.01 Events of Default; Remedies. If one or more of the following events (each, an “Event of Default”) shall occur and be continuing:

(a) The Borrower shall (i) default in the payment when due of any principal of any Loan or (ii) default in the payment when due of any interest on any Loan or any fee or any other amount payable by it under this Agreement or under any other Financing Document and the default described in clause (ii) shall continue unremedied for a period of three Business Days after the occurrence of such default; or

(b) A default shall have occurred with respect to the payment of principal or interest on any Indebtedness of the Borrower (other than any amount due under any Financing Document) and continued beyond any applicable grace period aggregating \$10,000,000 or more the effect of which has been to cause the entire amount of such Indebtedness to become due (whether by redemption, purchase, offer to purchase or otherwise) and the Indebtedness remains unpaid or the acceleration of its stated maturity unrescinded; or

(c) (i) Any representation or warranty made or deemed made by the Borrower or any Material Project Party in this Agreement or any other Financing Document or the Indemnification Agreement or (ii) any representation, warranty or statement in any certificate, financial statement or other document furnished to the Agent or any Lender by or on behalf of the Borrower or any Material Project Party, shall prove to have been false or misleading in any material respect as of the time made or deemed made, confirmed or furnished, and such condition or circumstance could reasonably be expected to have a Material Adverse Effect; provided, that such misrepresentation or such false statement shall not constitute an Event of Default if such condition or circumstance is (A) subject to cure, as determined by the Majority Lenders in their reasonable judgment and (B) remedied within 30 days after the earlier of (I) written notice of such default from the Agent or (II) the Borrower’s Knowledge of such default; or

(d) The Borrower shall fail to observe or perform any covenant or agreement contained in Section 8.02, 8.04(c), 8.09, 8.10, 8.11(a), 8.12, 8.13, 8.15(b), 8.16, 8.29, 8.30 or 8.31; or

(e) The Borrower shall default in the performance of any of its covenants or material agreements to be performed or observed by it under the Financing Documents (not otherwise addressed in this Section 9.01) and such default, if capable of remedy, shall continue unremedied for a period of 30 days after written notice of such default (specifying such default and requiring remedy thereof) from the Agent; provided, that if such failure is not capable of remedy within such 30-day period, such 30-day period shall be extended to a total period of 60 days so long as (i) such default is subject to cure, (ii) the Borrower is diligently and continuously proceeding to cure such default and (iii) such additional cure period could not reasonably be expected to result in a Material

Adverse Effect or materially and adversely affect the Borrower's rights, duties, obligations or liabilities under any TUA with an Anchor Tenant; or

(f) A Bankruptcy shall occur with respect to the Borrower or Pledgor; or

(g) A Bankruptcy shall occur with respect to (i) an Anchor Tenant (or a guarantor of an Anchor Tenant), (ii) the Operator or (iii) prior to Phase 1 Substantial Completion, the Phase 1 EPC Contractor; or

(h) Except as expressly permitted under Section 8.13 hereof, Liens in favor of the Secured Parties under the Security Documents shall at any time cease to constitute valid and perfected Liens granting a first priority security interest in the Collateral (subject to Permitted Liens) to the Secured Parties or;

(i) Except as otherwise addressed in this Section 9.01, the Borrower or any obligor under a Security Document shall default in the performance of any of its obligations (other than payment obligations) under such Security Document and such default shall continue unremedied for more than 30 days after the occurrence thereof; provided, that if such default constitutes a Contest or repudiation of the enforceability of such Security Document against such obligor, such event shall be governed by either paragraph (h) or (n) of this Section 9.01; or

(j) A final judgment or judgments for the payment of money in excess of \$5,000,000 in the aggregate shall be rendered by one or more Government Authorities, arbitral tribunals or other bodies having jurisdiction of the Borrower and the same shall not be discharged (or provision shall not be made for such discharge), dismissed or stayed, within 30 days from the date of entry of such judgment or judgments; in the case of more than one judgment within 30 days from the date of entry of the last such judgment; or

(k) An ERISA Event shall have occurred that, in the opinion of the Majority Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; or

(l) The Borrower shall default in the performance of its obligation to maintain in full force and effect the insurance required under Section 8.05 and such insurance is not replaced with insurance complying with the requirements of such sections within 15 days after such default; or

(m) Any Government Approval shall be Impaired and (i) such Impairment continues to exist for more than 30 days or such Government Approval is not replaced within 30 days and (ii) such Impairment could reasonably be expected to have a Material Adverse Effect; or

(n) This Agreement or any other Financing Document or any material provision of any Financing Document, (i) is declared in a final non-appealable judgment to be illegal or unenforceable, (ii) should otherwise cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection

with its expiration in accordance with its terms in the ordinary course (and not related to any default hereunder or (iii) is (including the enforceability thereof) expressly terminated, Contested or repudiated by any party thereto other than a Lender or the Collateral Agent; or

(o) (i) Any Material Project Document shall at any time for any reason cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default thereunder) or as permitted pursuant to Section 8.21) or (ii) any Material Project Party shall be in default under any Material Project Document or a Consent and Agreement or (iii) any other Project Party shall be in default under a Non-Material Project Document, Other Project Document or a Consent and Agreement and in the case of any such event set forth in clause (iii), such event could reasonably be expected to result in a Material Adverse Effect; provided, that no Event of Default shall have occurred pursuant to this Section 9.01(o) if (A) in the case of the occurrence of an event under clause (ii) or (iii) above, such default is cured within the lesser of 30 days and the cure period permitted under the applicable Project Document or Consent and Agreement with respect to such default or (B) in the case of the occurrence of any of the events set forth in clause (i), (ii) or (iii) above, the applicable Project Document is replaced within 60 days with a Project Document or Additional Project Document, as applicable, with a new Project Party acceptable to the Majority Lenders; or

(p) A Phase 1 Event of Abandonment; or

(q) Cheniere Energy, Inc.'s failure to (i) hold directly or indirectly at least 50% of the ownership interests in the Borrower or (ii) control, directly or indirectly (without granting to any other Person any negative controls over its right to exercise such control), voting rights with at least 50% of the votes of all classes in the Borrower; or

(r) An Event of Loss occurs with respect to all or substantially all of Phase 1; or

(s) Any Secured Party shall become, solely by virtue of (i) the ownership or the operation of the Project or (ii) the execution, delivery or performance of the Financing Documents, (A) subject to regulation under the law of the State of Louisiana with respect to rates, or subject to material financial and organizational regulation under such law or (B) subject to regulation under the law of the State of Louisiana as a "public utility", a "gas utility", a "public service corporation" or other similar term with respect to rates or material financial matters; or

(t) The failure to achieve Phase 1 Substantial Completion by May 1, 2009.

THEREUPON: (1) in the case of an Event of Default other than one referred to in paragraph (f) above with respect to the Borrower, the Agent may, and, upon request of the Supermajority Lenders, shall, by notice to the Borrower, terminate the Commitments or declare the principal amount then outstanding of, and the accrued interest on, the Loans and all other amounts payable by the Borrower hereunder (including any amounts payable under Section 5.02 or 5.03) to be

forthwith due and payable (or both), whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrower and (2) in the case of the occurrence of an Event of Default referred to in paragraph (f) above, the Commitments shall automatically be terminated and the principal amount then outstanding of, and the accrued interest on, the Loans and all other amounts payable by the Borrower under this Agreement and the other Financing Documents (including any amounts payable under Section 5.02 or 5.03) shall automatically become immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrower. In the case of any Event of Default, in addition to the exercise of remedies set forth in clauses (1) and (2) above, the Collateral Agent shall have the right, upon the consent or at the request of the Supermajority Lenders, to exercise any and all rights of a secured creditor with respect to the Collateral.

## ARTICLE X

### THE AGENT

10.01 Appointment, Powers and Immunities. Each Lender hereby irrevocably appoints and authorizes the Agent to act as its agent under this Agreement and the other Financing Documents with such powers as are specifically delegated to the Agent by the terms of the Financing Documents, together with such other powers as are reasonably incidental to such powers. The Agent (which term as used in this sentence and in Section 10.05 and the first sentence of Section 10.06 shall include reference to its Affiliates and its own and its Affiliates' officers, directors, employees, representatives and agents): (a) shall have no duties or responsibilities except those expressly set forth in the Financing Documents, and shall not by reason of any Financing Document be a trustee for any Lender; (b) shall not be responsible to the Lenders for any recitals, statements, representations or warranties contained in any Financing Document, or in any certificate or other document referred to or provided for in, or received by any of them under, any Financing Document, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of any Financing Document or any other document referred to or provided for in any Financing Document or for any failure by the Borrower or any other Person to perform any of its obligations under any Financing Document; (c) shall not be required to initiate or conduct any litigation or collection proceedings under any Financing Document and (d) shall not be responsible for any action taken or omitted to be taken by it under any Financing Document or under any other document or instrument referred to or provided for in any Financing Document or in connection with any Financing Document, except for its own gross negligence or willful misconduct. The Agent may employ agents and attorneys-in-fact and shall not be responsible for the negligence or misconduct of any such agents or attorneys-in-fact selected by it in good faith.

10.02 Reliance by Agent. The Agent shall be entitled to rely upon any certification, notice or other communication (including any made by telephone, telecopy, telex, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by the Agent. As to any matters not expressly provided for by any Financing Document, the Agent shall in all cases be fully protected in acting, or in refraining from acting, under any Financing Document in accordance



with instructions given by the Majority Lenders or, if provided in this Agreement, in accordance with the instructions given by the Majority Lenders, Supermajority Lenders or all Lenders as is required in such circumstance, and such instructions of such Lenders and any action taken or failure to act pursuant to such instructions shall be binding on all of the Lenders.

10.03 Defaults. The Agent shall not be deemed to have knowledge or notice of the occurrence of a Default (other than the nonpayment of principal of or interest on Loans or of fees payable hereunder) unless the Agent has received notice from a Lender or the Borrower specifying such Default and stating that such notice is a "Notice of Default". In the event that the Agent receives such a notice of the occurrence of a Default, the Agent shall give prompt notice of such receipt to the Lenders (and shall give each Lender prompt notice of each such nonpayment). The Agent shall (subject to Section 10.07) take such action with respect to such Default as shall be directed by the Majority Lenders; provided, that unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable in the best interest of the Lenders except to the extent that this Agreement expressly requires that such action be taken, or not be taken, only with the consent or upon the authorization of the Majority Lenders, Supermajority Lenders or all of the Lenders, as the case may be.

10.04 Rights as a Lender. With respect to its Commitments and the Loans made by it, Société Générale (and any successor acting as Agent) in its capacity as a Lender under the Financing Documents shall have the same rights, privileges and powers under the Financing Documents as any other Lender and may exercise the same as though it were not acting as the Agent, and the term "Lender" or "Lenders" shall, unless the context otherwise indicates, include the Agent in its individual capacity. Société Générale (and any successor acting as Agent) and its Affiliates may (without having to account for the same to any Lender) accept deposits from, lend money to, make investments in and generally engage in any kind of banking, trust or other business with the Borrower (and any of its Subsidiaries or Affiliates) as if it were not acting as the Agent, and Société Générale and its Affiliates may accept fees and other consideration from the Borrower for services in connection with this Agreement or otherwise without having to account for the same to the Lenders.

10.05 Indemnification. The Lenders agree to indemnify the Agent and the Collateral Agent (to the extent not reimbursed under Section 6.06 of the Collateral Agency Agreement or Section 11.03, as applicable, but without limiting the obligations of the Borrower under such Section 6.05 or Section 6.06 of the Collateral Agency Agreement or Section 11.03, as applicable) ratably in accordance with the aggregate principal amount of the Loans held by the Lenders (or, if no Loans are at the time outstanding, ratably in accordance with their respective Commitments), for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against such Person (including by any Lender) including, without limitation, any Environmental Claims or other obligations or liabilities arising under any Environmental Law arising out of or by reason of any investigation or any way relating to or arising out of this Agreement or any other Transaction Document or any other documents contemplated by or referred to in this Agreement or in the other Transaction Documents or the transactions contemplated by this Agreement (including the costs and expenses which the Borrower is obligated to pay under Section 6.06 of the Collateral Agency Agreement or

Section 11.03, as applicable, but excluding, unless a Default has occurred and is continuing, normal administrative costs and expenses incident to the performance of its agency duties) or the enforcement of any of the terms of this Agreement or of the other Transaction Documents or of any such other documents; provided, that no Lender shall be liable for any of the foregoing to the extent they arise from the gross negligence or willful misconduct of the Person to be indemnified.

10.06 Non-Reliance on Agent, Collateral Agent and Other Lenders. Each Lender agrees that it has, independently and without reliance on the Agent, the Collateral Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Borrower and decision to enter into this Agreement and that it will, independently and without reliance upon the Agent, the Collateral Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement or any other Transaction Document. Neither the Agent nor the Collateral Agent shall be required to keep itself informed as to the performance or observance by the Borrower or any other Person of this Agreement or any other Transaction Document or any other document referred to or provided for in this Agreement or in any other Transaction Document or to inspect the Properties or books of the Borrower or such other Person. Without limiting the generality of the foregoing, reference is hereby made to the provisions of Article VI of the Collateral Agency Agreement, and the limitations on certain responsibilities of the Collateral Agent contained therein; the provisions of Article VI of the Collateral Agency Agreement are incorporated by this reference as if set forth in full herein. The Agent and the Collateral Agent shall promptly make available to the Lenders (through Intralinks or otherwise) copies of all notices, reports and other documents that the Borrower is required to provide to the Lenders (including the materials contemplated in Section 8.01 hereof) pursuant to the terms of the Financing Documents.

10.07 Failure to Act. Except for action expressly required of the Agent under this Agreement and under the other Financing Documents to which the Agent is intended to be a party, the Agent shall in all cases be fully justified in failing or refusing to act under this Agreement and under the other Financing Documents unless it shall receive further assurances to its satisfaction from the Lenders of their indemnification obligations under Section 10.05 against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

10.08 Resignation or Removal of Agent. Subject to the appointment and acceptance of a successor Agent as provided below, the Agent may resign at any time by notice to the Lenders and the Borrower, and the Agent may be removed at any time with or without cause by the Majority Lenders. Upon any such resignation or removal, the Majority Lenders shall have the right to appoint a successor Agent, which successor Agent shall (so long as no Event of Default has occurred and is continuing) be reasonably acceptable to the Borrower. If no successor Agent shall have been so appointed by the Majority Lenders and shall have accepted such appointment within 30 days after the retiring Agent's giving of notice of resignation or the Majority Lenders' removal of the retiring Agent, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent, which shall be an Acceptable Bank which has an office in New York, New York, which successor Agent shall (so long as no Event of Default has occurred and is continuing) be reasonably acceptable to the Borrower. Upon the acceptance of any

appointment as Agent by a successor Agent, such successor Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under this Agreement and the other Financing Documents to which it is intended to be a party. After any retiring Agent's resignation or removal as Agent, the provisions of this Article X shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Agent.

10.09 Consents under Transaction Documents. Except as otherwise provided in Section 11.04 with respect to any modification, supplement or waiver under this Agreement, the Agent shall, upon the prior consent of the Majority Lenders (except to the extent otherwise provided in this Agreement), consent to (and shall direct the Collateral Agent, if applicable, to enter into) any modification, supplement or waiver under any other such Financing Document to which the Agent or the Collateral Agent is intended to be a party; provided, that without the prior consent of each Lender, the Agent shall not (and, if applicable, shall not direct the Collateral Agent to) (except as contemplated in this Agreement or in the Security Documents) release any Collateral or otherwise terminate any Lien under any Security Document, or agree to additional obligations being secured by the Collateral (unless the Lien for such additional obligations shall be junior to the Lien in favor of the other obligations secured by such Security Document and is otherwise permitted under this Agreement or the Security Documents), except that no such consent shall be required, and the Agent is hereby authorized, to release (and to direct the Collateral Agent to release) any Lien covering Property of the Borrower or any other Person which is the subject of a disposition of Property of the Borrower or such other Person which is permitted or contemplated under this Agreement or under the relevant Security Document or to which the Lenders have otherwise consented.

10.10 Appointment of Collateral Agent. Each Lender hereby irrevocably authorizes the Agent to act as its agent under the Collateral Agency Agreement to appoint the Collateral Agent and Securities Intermediary thereunder on behalf of such Lender and the other Secured Parties, such appointment subject to the terms and conditions of such agreement.

## ARTICLE XI

### MISCELLANEOUS

11.01 Waiver. No failure on the part of the Agent or any Lender to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement or any other Financing Document shall operate as a waiver of such right, remedy, power or privilege, and no single or partial exercise of any right, power or privilege under this Agreement or any other Financing Document shall preclude any other or further exercise of such right, remedy, power or privilege, or the exercise of any other right, power or privilege. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by law. All covenants of the Borrower and the Pledgors set forth in this Agreement and the other Financing Documents and all Events of Default set forth in Section 9.01 shall be given independent effect so that, in the event that a particular action or condition is not permitted by the terms of any such covenant or would result in a Default, the fact that such event or condition could be permitted by an exception to, or be otherwise within the

limitations of, another covenant or another Event of Default shall not avoid the occurrence of a Default or an Event of Default in the event that such action is taken or condition exists.

11.02 Notices. All notices, requests and other communications provided for in this Agreement and under the Financing Documents (including any modifications of, or waivers or consents under, this Agreement) shall be given or made in writing (including by telex, telecopy, facsimile or delivered in "Portable Document Format") delivered to the intended recipient at the "Address for Notices" specified below its name on the signature pages of this Agreement or in the relevant section as specified in other Financing Documents, as to any party, or at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telex, telecopy, facsimile or delivered in "Portable Document Format" or personally delivered or, in the case of a mailed notice or notice sent by courier, upon receipt, in each case given or addressed as set forth above.

11.03 Expenses; Etc. The Borrower agrees to pay or reimburse each of the Lenders and the Agent for: (a) all reasonable out-of-pocket costs and expenses of the Agent (including the reasonable fees and expenses of Milbank, Tweed, Hadley & McCloy LLP, counsel to the Agent (or such other counsel that the Agent may select from time to time which, so long as no Default has occurred and is continuing, shall be reasonably satisfactory to the Borrower)) and experts (including the Independent Engineer and the Insurance Advisor) engaged by the Agent or the Lenders from time to time, in connection with (i) the negotiation, preparation, execution and delivery of this Agreement and the other Transaction Documents and the extensions of credit under this Agreement, (ii) any amendment, modification or waiver of any of the terms of this Agreement or any other Transaction Document and (iii) the syndication of Commitments or Loans, (b) all reasonable costs and expenses of the Lenders and the Agent (including reasonable counsels' fees and expenses and reasonable experts' fees and expenses) in connection with (i) any Default and any enforcement or collection proceedings resulting from such Default or in connection with the negotiation of any restructuring or "work-out" (whether or not consummated) of the obligations of the Borrower under this Agreement or the obligations of any Project Party under any other Transaction Document and (ii) the enforcement of this Section 11.03(b) and all transfer, stamp, documentary or other similar taxes, assessments or charges levied by any Government Authority in respect of this Agreement or any other Transaction Document or any other document referred to in this Agreement or in any such other Transaction Document and all costs, expenses, taxes, assessments and other charges incurred in connection with any filing, registration, recording or perfection of any Lien contemplated by this Agreement or any other Transaction Document to which the Agent or the Collateral Agent is intended to be a party or any other document referred to in this Agreement or in any such other Transaction Document.

The Borrower hereby agrees to indemnify the Agent and each Lender and their respective officers, directors, employees, representatives, attorneys and agents (each, an "Indemnitee") from, and shall hold each of them harmless against, any and all losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements of any kind or nature whatsoever (including the reasonable fees and expenses of counsel for each Indemnitee in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitee shall be designated a

party to any such proceeding) that may at any time (including at any time following the Termination Date) be imposed on, asserted against or incurred by an Indemnitee as a result of, or arising out of, or in any way related to or by reason of any claim of third parties with respect to (a) any of the transactions contemplated by this Agreement or by any other Transaction Document or the execution, delivery or performance of this Agreement or any other Transaction Document, (b) the extensions of credit under this Agreement or the actual or proposed use by the Borrower of any of the extensions of credit under this Agreement or the grant to the Agent or the Collateral Agent for the benefit of, or to any of, the Secured Parties of any Lien on the Collateral or in any other Property of the Borrower or any other Person or any membership, partnership or equity interest in the Borrower or any other Person and (c) the exercise by the Agent or the Collateral Agent (or the other Secured Parties) of their rights and remedies (including foreclosure) under any Security Document (but excluding, as to any Indemnitee, any Excluded Taxes, any such losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements incurred solely by reason of the gross negligence or willful misconduct of such Indemnitee as finally determined by a court of competent jurisdiction or attributable to actions or events occurring after the Borrower is divested of the applicable Collateral). Without limiting the generality of the foregoing, the Borrower hereby agrees to indemnify each Indemnitee from, and shall hold each Indemnitee harmless against, any losses, liabilities, claims, damages, reasonable expenses, obligations, penalties, actions, judgments, suits, costs or disbursements described in the preceding sentence (including any Lien filed against the Project by any Government Authority but excluding, as provided in the preceding sentence, any such losses, liabilities, claims, damages, expenses, obligations, penalties, actions, judgments, suits, costs or disbursements incurred directly and primarily by reason of the gross negligence or willful misconduct of such Indemnitee as finally determined by a court of competent jurisdiction) (collectively, "Losses") arising under any Environmental Law including any Environmental Claims or other Losses arising as a result of the past, present or future operations of the Borrower, or the past, present or future condition of the Project, or any Release or Use or threatened Release of any Hazardous Materials with respect to the Project (including any such Release or Use or threatened Release which shall occur during any period when such Indemnitee shall be in possession of any such site or facility following the exercise by the Agent or any other Secured Party of any of its rights and remedies under this Agreement or under any Financing Document or any other Transaction Document where such Use or Release commenced or occurred prior to such period); provided, however, that the Borrower shall have no such obligation to indemnify any Indemnitee to the extent that any such Release or Use is caused by such Indemnitee's gross negligence or willful misconduct as determined by a final non-appealable judgment.

11.04 Amendments, Etc. Except as otherwise expressly provided in this Agreement, any provision of this Agreement may be amended or modified only by an instrument in writing signed by the Borrower, the Agent, the Collateral Agent and the Majority Lenders, or by the Borrower and the Agent with the consent of the Majority Lenders, and any provision of this Agreement may be waived by the Majority Lenders or by the Agent acting with the consent of the Majority Lenders; provided, that (a) no amendment, modification or waiver shall, unless by an instrument signed by all of the Lenders or by the Agent acting with the consent of all of the Lenders (i) increase or extend the term, or extend the time or waive any requirement for the reduction or termination, of the Commitments, (ii) extend the date fixed for the payment of principal of or interest on any Loan or any fee under this Agreement, (iii) reduce the amount of

any such payment of principal, (iv) reduce the rate at which interest is payable on any such amount or any fee is payable under this Agreement, (v) alter the rights or obligations of the Borrower to prepay Loans, (vi) alter the terms of this Section 11.04 or (vii) release any material portion of any Collateral in any transaction or series of related transactions or permit the creation, incurrence, assumption or existence of any Lien on any material portion of the Collateral in any transaction or series of related transactions to secure any obligations other than the Secured Obligations owing to the Secured Parties under the Financing Documents or as may be permitted by Section 8.13 or the other Financing Documents or (viii) amend the definition of the term (A) "Majority Lenders" or "Supermajority Lenders" or modify in any other manner the number or percentage of the Lenders required to make any determinations or waive any rights under this Agreement or to modify any provision of this Agreement, (B) "Permitted Indebtedness" or (C) "Permitted Swap Agreements", (b) any amendment, modification, waiver or supplement of Article X shall require the consent of the Agent and, only to the extent Section 10.05 or Section 10.06 of Article X would be amended, modified or supplemented as a result thereof, the Collateral Agent and (c) no amendment, modification or waiver shall, unless by an instrument signed by the Supermajority Lenders or by the Agent with the consent of the Supermajority Lenders, (i) amend the definition of "Term Conversion Date" or (ii) amend, modify or waive the provisions of Section 8.12(g).

Anything in this Agreement to the contrary notwithstanding, if at any time when the conditions precedent set forth in Article VI to any extension of credit under this Agreement are, in the opinion of the Majority Lenders, satisfied, any Lender shall fail to fulfill its obligations to make such extension of credit, then, for so long as such failure shall continue, such Lender shall (unless the Majority Lenders determined as if such Lender were not a "Lender" under this Agreement, shall otherwise consent in writing) be deemed for all purposes relating to amendments, modifications, waivers or consents under this Agreement, any other Financing Document (including under this Section 11.04 and under Section 10.09) to have no Loans or Commitments, shall not be treated as a "Lender" under this Agreement when performing the computation of Majority Lenders, and shall have no rights under the preceding paragraph of this Section 11.04; provided, that any action taken by the other Lenders with respect to the matters referred to in clause (a) of the preceding paragraph shall not be effective as against such Lender.

11.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

11.06 Assignments and Participations.

(a) The Borrower may not assign its rights or obligations under this Agreement without the prior consent of all of the Lenders and the Agent.

(b) Each Lender may assign any or all of its Loans and its Commitments (i) during the syndication by the Lead Arrangers (which shall continue until written notice of completion of syndication is provided by the Lead Arrangers), with the consent of the Lead Arrangers (not to be unreasonably withheld or delayed), after consultation with the Borrower, (ii) during the continuance of an Event of Default, with the consent of the Agent (not to be unreasonably withheld or delayed), (iii) at any time not otherwise included in clause (i) or (ii).

with the consent of the Agent (not to be unreasonably withheld or delayed) and the consent of the Borrower (not to be unreasonably withheld or delayed) and (iv) at any time to any Affiliate of any Lender or funding vehicle established by such Lender, without the consent of the Borrower or the Agent, provided, that (A) in the case of clause (iii), the Borrower may withhold its consent if such assignment is expected to result in increased costs to the Borrower under Section 5.02, (B) in each case, any such partial assignment shall be in an amount at least equal to \$5,000,000 and (C) in the case of any partial assignment, the assigning Lender shall retain Loans or commitments of at least \$5,000,000. Upon execution and delivery by the assignee to the Borrower and the Agent of an assignment and acceptance substantially in the form of the attached Exhibit H, and upon consent to such assignment and acceptance by the Agent and the Borrower, to the extent required above, the assignee shall have, to the extent of such assignment (unless otherwise provided in such assignment with the consent of the Borrower and the Agent), the obligations, rights and benefits of a Lender under this Agreement holding the Commitment and Loans (or portions thereof) assigned to it (in addition to the Commitment and Loans, if any, previously held by such assignee) and the assigning Lender shall, to the extent of such assignment, be released from the Commitment (or portion thereof) so assigned. Upon each such assignment (other than such an assignment by the Agent) the assigning Lender shall pay the Agent an assignment fee of \$3,500.

(c) If any Lender fails to provide its consent or fails to consent to any amendment, modification or waiver requiring the consent of all of the Lenders requested by the Borrower under or with respect to the Financing Documents ("Subject Lender"), the Borrower may, in its sole discretion, designate an Acceptable Bank that may or may not at such time be a Lender (the "Designee Lender"), to assume (without the Agent's consent, if required) all of the obligations (including the Commitment) of such Subject Lender and to purchase the interest and rights of such Subject Lender hereunder, without recourse upon, or warranty by, or expense to such Subject Lender, for a purchase price equal to the outstanding principal amount of the Loans of such Subject Lender plus all interest accrued thereon and all other amounts then owing to such Subject Lender pursuant to this Agreement. Upon execution and delivery by the Designee Lender to the Borrower and Agent of an assignment and acceptance substantially in the form of the attached Exhibit H (and, in the case of an assignment to a new Lender, delivery to the Agent of any additional documentation referred to in Exhibit H, duly completed by the Designee Lender) (provided, that (1) if such assignment is to an existing Lender, no fee shall be payable thereunder to the Agent and (2) if such assignment is to a new Lender, the Borrower shall pay the Agent the assignment fee thereunder), such Designee Lender shall be deemed to be a "Lender" and shall have the obligations, rights and benefits of a Lender under this Agreement holding the Loans and/or Commitments assigned to it (in addition to the Loans and/or Commitments, if any, previously held by such Designee Lender) and such Subject Lender shall be released from the Loan and/or Commitments so assigned and shall no longer have any rights or obligations hereunder or under any other Financing Document (but shall not be released or discharged in connection with any claim that the Borrower may have against such Subject Lender (subject to Section 11.17 hereof)).

(d) A Lender, without the consent of the Borrower or the Agent, may sell or agree to sell to one or more other Persons a participation in all or any part of any Loan held by it, or in its Commitments (provided, that partial participations shall be in an amount at least equal to \$5,000,000 and the assigning Lender shall retain Loans or commitments of at least \$5,000,000),

in which event each purchaser of a participation (a "Participant") shall have the rights, benefits and obligations of the provisions of Section 5.02 (except that any such Participant shall be entitled only to the extent that the Lender from which such Participant acquired its participation is entitled, and such Lender makes such claim on its own behalf because it would have otherwise incurred the same costs) and of Section 5.04 with respect to its participation in such Loans and Commitments (and the Borrower shall be directly obligated to such Participant under such provisions) in each case as if such Participant were a "Lender" for purposes of such Section, but, except as otherwise provided in Section 4.07(c), shall not have any other rights or benefits under this Agreement or any other Financing Document (the Participant's rights against such Lender in respect of such participation to be those set forth in the agreements executed by such Lender in favor of the Participant). In no event shall a Lender that sells a participation agree with the Participant to take or refrain from taking any action under this Agreement or under any other Financing Document except that such Lender may agree with the Participant that it will not, without the consent of the Participant, agree to (i) increase or extend the term, or extend the time or waive any requirement for the reduction or termination, of such Lender's Commitment, (ii) extend the date fixed for the payment of principal of or interest on the related Loan or Loans, or any portion of any fee payable to the Participant, (iii) reduce the amount of any such payment of principal, (iv) reduce the rate at which interest is payable on any amount under this Agreement, or reduce any fee or other amount payable to the Participant to a level below the rate at which the Participant is entitled to receive such interest or fee, (v) alter the rights or obligations of the Borrower to prepay the related Loans or (vi) consent to any modification or waiver of this Agreement or of any Security Document to the extent that such waiver or modification, under Section 10.09 requires the consent of each Lender.

(e) Anything in this Section 11.06 to the contrary notwithstanding, any Lender may assign or pledge all or any portion of its rights under this Agreement to secure any obligations of such Lender, including any such pledge or assignment to any federal reserve lender or any assignment to a special purpose trust or other entity for purposes of securitization of such Lender's loans. No such assignment shall release the assigning Lender from its obligations hereunder.

(f) A Lender may furnish any information concerning the Borrower in the possession of such Lender from time to time to assignees and participants (including prospective assignees and participants), subject, however, to the provisions of Section 11.08(b).

(g) In connection with any assignment or sale of a participation pursuant to this Article XI, such assignee or Participant shall comply with Section 5.04(e).

(h) Anything in this Section 11.06 to the contrary notwithstanding, no Lender may assign or participate any interest in any Loan held by it to the Borrower or any of its Affiliates without the prior consent of each Lender.

11.07 Marshalling; Recapture. None of the Agent, the Collateral Agent or any Lender shall be under any obligation to marshal any assets in favor of the Borrower or any other party or against or in payment of any or all of the Secured Obligations. To the extent any Lender receives any payment by or on behalf of the Borrower, all or a portion of which payment is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be



repaid to the Borrower or its estate, trustee, receiver, custodian or any other party under any bankruptcy or insolvency law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the obligation or part thereof which has been paid, reduced or satisfied by the amount so repaid shall be reinstated by the amount so repaid and shall be included within the liabilities of the Borrower to such Lender as of the date such initial payment, reduction or satisfaction occurred.

**11.08 Treatment of Certain Information; Confidentiality.**

(a) The Borrower acknowledges that (i) from time to time financial advisory, investment banking and other services may be offered or provided to it (in connection with this Agreement or otherwise) by each Lender or by one or more subsidiaries or Affiliates of such Lender and (ii) information delivered to each Lender by the Borrower may be provided to each such subsidiary and Affiliate, it being understood that any such subsidiary or Affiliate receiving such information shall be bound by the provisions of Section 11.08(b) as if it were a Lender under this Agreement.

(b) Each Lender, the Agent and the Collateral Agent agrees (on behalf of itself and each of its Affiliates, directors, officers, employees and representatives) to keep confidential, in accordance with their customary procedures for handling confidential information of this nature and in accordance with safe and sound banking practices, any non-public information supplied to it by the Borrower pursuant to this Agreement that is identified by the Borrower as being confidential at the time the same is delivered to such Lender, the Agent or the Collateral Agent, including information provided by the EPC Contractor pursuant to Section 9.3 of the EPC Contract, information provided by a Phase 2 Construction Contractor pursuant to a Phase 2 Construction Contract or any other contractor entering into an agreement with the Borrower in relation to Phase 2; provided, that nothing in this Agreement shall limit the disclosure of any such information (i) to the extent required by any Government Rule or judicial process, (ii) to counsel for any of the Lenders, the Collateral Agent or the Agent, so long as counsel to such parties agrees to maintain the confidentiality of the information as provided in this Section 11.08(b), (iii) to bank examiners, auditors or accountants, (iv) to the Agent, the Collateral Agent or any other Lender (or any subsidiary or Affiliate of any Lender referred to in Section 11.08(a)), (v) after notice to the Borrower (to the extent such prior notice is legally permitted), in connection with any litigation to which any one or more of the Lenders, the Collateral Agent or the Agent is a party and pursuant to which such Lender, the Collateral Agent or the Agent has been compelled or required to disclose such information in the reasonable opinion of counsel to such Lender, the Collateral Agent or Agent, (vi) to the Independent Engineer or the Insurance Advisor or to other experts engaged by the Agent, the Collateral Agent or any Lender in connection with the Agreement and the transactions contemplated by this Agreement and the other Financing Documents, so long as such parties agree to maintain the confidentiality of the information as provided in this Section 11.08(b), (vii) to the extent that such information is required to be disclosed to a Government Authority in connection with a tax audit or dispute, (viii) in connection with any Default and any enforcement or collection proceedings resulting from such Default or in connection with the negotiation of any restructuring or “work-out” (whether or not consummated) of the obligations of the Borrower under this Agreement or the obligations of any Project Party under any other Project Document or (ix) to any assignee or participant (or prospective assignee or participant) so long as such

assignee or participant (or prospective assignee or participant) first executes and delivers to the respective Lender a Confidentiality Agreement substantially in the form of Exhibit I. In no event shall any Lender, the Collateral Agent or the Agent be obligated or required to return any materials furnished by the Borrower provided, however, that any confidential information retained by such Lender, the Collateral Agent or the Agent shall continue to be subject to the provisions of this Section 11.08(b). The obligations of each Lender under this Section 11.08 shall supersede and replace the obligations of such Lender under any confidentiality letter, or other confidentiality obligation, in respect of this financing effective prior to the date of the execution and delivery of this Agreement.

11.09 Limitation of Liability. Notwithstanding any other provision of this Agreement or of any of the other Financing Documents, there shall be no recourse against any Affiliates of the Borrower or any of their respective stockholders, partners, members, officers, directors, employees or agents (collectively, the “Nonrecourse Persons”), for any liability to the Lenders, the Agent or the Collateral Agent arising under this Agreement or any other Financing Document and the Lenders, the Agent and the Collateral Agent shall look solely to the Borrower and the Collateral in exercising their rights and remedies in connection therewith; provided, however, that (a) the foregoing provisions of this Section 11.09 shall not constitute a waiver, release or discharge of the Borrower for any of the Indebtedness or Secured Obligations of the Borrower under, or any terms, covenants, conditions or provisions of, this Agreement or any other Financing Document, and the same shall continue until fully and indefeasibly paid, discharged, observed or performed, (b) the foregoing provisions of this Section 11.09 shall not limit or restrict the right of any Secured Party to name the Borrower or any other Person as defendant in any action or suit for a judicial foreclosure or for the exercise of any other remedy under or with respect to this Agreement, any of the Security Documents or any other Financing Document to which such Person is a party, or for injunction or specific performance, so long as no judgment in the nature of a deficiency judgment shall be enforced against any Nonrecourse Person out of any Property other than the Property of the Borrower or the Collateral, (c) the foregoing provisions of this Section 11.09 shall not in any way limit, reduce, restrict or otherwise affect any right, power, privilege or remedy of the Secured Parties (or any assignee or beneficiary thereof or successor thereto) with respect to, and each and every Person (including each and every Nonrecourse Person) shall remain fully liable to the extent that such Person would otherwise be liable for its own actions with respect to, any fraud, gross negligence or willful misrepresentation, or willful misappropriation of Project Revenues or any other earnings, revenues, rents, issues, profits or proceeds from or of the Borrower, the Project or the Collateral that should or would have been paid as provided in the Financing Documents or paid or delivered to the Agent (or any assignee or beneficiary thereof or successor thereto) for any payment required under this Agreement or any other Financing Document and (d) nothing contained herein shall limit the liability of: (i) any Person who is a party to any Transaction Document or (ii) any Person rendering a legal opinion pursuant to Sections 6.01(n) and 6.02(g) or otherwise, in each case under this clause (d) relating solely to such liability of such Person as may arise under such referenced agreement, instrument or opinion. The limitations on recourse set forth in this Section 11.09 shall survive the termination of this Agreement and the full and indefeasible payment and performance of the Secured Obligations.

11.10 Survival. The obligations under Sections 5.02, 5.03, 5.04, 11.03, 11.17, 11.18, and 11.19, the obligations of the Lenders under Section 10.05 and the obligations of the

Lenders, the Agent and the Collateral Agent under Section 11.08 shall survive after the Termination Date and, in the case of the obligations under Section 11.08, expire on the date falling 2 years after the Termination Date. In addition, each representation and warranty made, or deemed to be made by a notice of any extension of credit, in this Agreement or pursuant to this Agreement shall survive the making of such representation and warranty, and no Lender shall be deemed to have waived, by reason of making any extension of credit under this Agreement, any Default which may arise by reason of such representation or warranty proving to have been false or misleading.

11.11 Captions. The table of contents and captions and section headings appearing in this Agreement are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

11.12 Counterparts; Integration; Effectiveness. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any party to this Agreement may execute this Agreement by signing any such counterpart; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signatures are physically attached to the same counterpart. This Agreement and the other Financing Documents constitute the entire agreement and understanding among the parties to this Agreement with respect to the matters covered by this Agreement and the other Financing Documents and supersede any and all prior agreements and understandings, written or oral, with respect to such matters. This Agreement shall become effective at such time as the Agent shall have received counterparts of this Agreement signed by all of the intended parties to this Agreement.

11.13 Reinstatement. The obligations of the Borrower under this Agreement shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Secured Obligations is rescinded or must be otherwise restored by any holder of any of the Secured Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Borrower agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including fees of counsel) incurred by such Secured Party in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

11.14 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of this Agreement; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

11.15 Remedies. The Borrower agrees that, as between the Borrower and the Lenders, the obligations of the Borrower under this Agreement may be declared to be forthwith due and payable as provided in Article IX (and shall be deemed to have become automatically due and payable in the circumstances provided in Article IX), and that, in the event of such

declaration (or such obligations being deemed to have become automatically due and payable), such obligations shall forthwith become due and payable by the Borrower.

11.16 NO THIRD PARTY BENEFICIARIES. THE AGREEMENT OF THE LENDERS TO MAKE THE LOANS TO THE BORROWER, ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT, IS SOLELY FOR THE BENEFIT OF THE BORROWER, THE AGENT, THE COLLATERAL AGENT, SECURITIES INTERMEDIARY AND THE LENDERS, AND NO OTHER PERSON (INCLUDING ANY OTHER PROJECT PARTY, CONTRACTOR, SUBCONTRACTOR, SUPPLIER, WORKMAN, CARRIER, WAREHOUSEMAN OR MATERIALMAN FURNISHING LABOR, SUPPLIES, GOODS OR SERVICES TO OR FOR THE BENEFIT OF THE PROJECT) SHALL HAVE ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY OTHER TRANSACTION DOCUMENT AS AGAINST THE AGENT OR ANY LENDER OR WITH RESPECT TO ANY EXTENSION OF CREDIT CONTEMPLATED BY THIS AGREEMENT.

11.17 SPECIAL EXCULPATION. TO THE EXTENT PERMITTED BY APPLICABLE GOVERNMENT RULE, NO CLAIM MAY BE MADE BY ANY PARTY HERETO AGAINST ANY OTHER PARTY HERETO OR ANY OF THEIR RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATING TO, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER FINANCING DOCUMENTS (OTHER THAN THE RIGHTS OF THE LENDERS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS), AND EACH PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

11.18 GOVERNING LAW; SUBMISSION TO JURISDICTION. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN SUCH STATE. THE PARTIES HEREBY SUBMIT TO THE NONEXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT AND STATE COURT SITTING IN NEW YORK CITY FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS. EACH OF THE PARTIES HERETO 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. THE

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BORROWER HEREBY APPOINTS AND DESIGNATES CT CORPORATION SYSTEM, WHOSE ADDRESS IS 111 EIGHTH AVENUE, 13<sup>TH</sup> FLOOR, NEW YORK, NY 10011, OR ANY OTHER PERSON HAVING AND MAINTAINING A PLACE OF BUSINESS IN THE STATE OF NEW YORK WHOM THE BORROWER MAY FROM TIME TO TIME HEREAFTER DESIGNATE (HAVING GIVEN 30 DAYS' NOTICE THEREOF TO THE COLLATERAL AGENT AND EACH LENDER), AS THE DULY AUTHORIZED AGENT FOR RECEIPT OF SERVICE OF LEGAL PROCESS. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE PARTIES TO BRING PROCEEDINGS IN THE COURTS OF ANY OTHER JURISDICTION OR TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW.

11.19 WAIVER OF JURY TRIAL. THE BORROWER, THE AGENT, THE COLLATERAL AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS.

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IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be duly executed as of the day and year first above written.

BORROWER:

SABINE PASS LNG, L.P.

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

By: /s/ Graham A. McArthur  
Name: Graham A. McArthur  
Title: Treasurer

Address for Notices:

717 Texas Avenue, Suite 3100  
Houston, TX 77002  
Attn: Don Turkleson

---

AGENT:

SOCIÉTÉ GÉNÉRALE

By: /s/ Edward J. Grimm  
Name: Edward J. Grimm  
Title: Director

By: \_\_\_\_\_  
Name:  
Title:

Address for Notices:

1221 Avenue of the Americas  
New York, NY 10020  
Attn: Robert Preminger

Telephone:  
Fax:

---

COLLATERAL AGENT:

HSBC BANK USA, NATIONAL ASSOCIATION

By: /s/ Deirdra N. Ross

Name: Deirdra N. Ross

Title: Assistant Vice President

Address for Notices:

HSBC Bank USA, National Association

452 Fifth Avenue

New York, NY 10018

Attn: Corporate Trust

With a copy to:

DLA Piper Rudnick Gray Cary US LLP

One Liberty Place

1650 Market Street, Suite 4900

Philadelphia, PA 19103

Attn: Peter Tucci, Esq.



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LENDERS:

SANTANDER CENTRAL HISPANO S.A., NEW YORK BRANCH

By: /s/ Ignacio Dominique-Hoanue

Name: Ignacio Dominique-Hoanue

Title: Managing Director

By: /s/ Pablo F. Lastra

Name: Pablo F. Lastra

Title: Vice President

Address for Notices:

45 East 53<sup>rd</sup> Street

New York, NY 10022

Attn: Felipe González

Telephone: 212-407-0997

Fax: 212-350-0740

---

BAYERISCHE LANDESBANK

By: /s/ Thomas von Kistowsky  
Name: Thomas von Kistowsky  
Title: Senior Vice President

By: /s/ Norman McClave  
Name: Norman McClave  
Title: First Vice President

Address for Notices:

560 Lexington Avenue  
New York, NY 10022  
Attn: Ed Fenk

Telephone: 212-230-9074  
Fax: 212-230-9117

---

THE BANK OF NOVA SCOTIA

By: /s/ N. Bell

Name: N. Bell

Title: Senior Manager

Address for Notices:

Houston Representative Office  
1100 Louisiana, Suite 3000  
Houston, TX 77002  
Attn: Greg George

Telephone: 713-759-3430

Fax: 713-752-2425

With a Copy to:

Houston Representative Office  
1100 Louisiana, Suite 3000  
Houston, TX 77002  
Attn: Mike Roberts

Telephone: 713-759-3449

Fax: 713-752-2425

---

THE GOVERNOR & CO. OF THE BANK OF IRELAND

By: /s/ Stephen H. Moon  
Name: Stephen H. Moon  
Title: Head of Energy Sector

By: /s/ Kevin Maxter  
Name: Kevin Maxter  
Title: Deputy Manager

Address for Notices:

La Touche House,  
IFSC  
Dublin 1, Ireland  
Attn: Donal Murphy

Telephone: 353-1-611-5396  
Fax: 353-1-672-0046

---

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., NEW YORK  
BRANCH (successor by merger to The Bank of Tokyo-Mitsubishi,  
Ltd. and UFJ Bank Limited)

By: /s/ Takeshi Takahashi

Name: Takeshi Takahashi

Title: SVP & Group Head

Structured Finance Group

Address for Notices:

1251 Avenue of the Americas

10<sup>th</sup> Floor

New York, NY 10020

Attn: Alec Tasooji

Telephone: 212-782-4193

Fax: 212-782-5870

---

CALYON NEW YORK BRANCH

By: /s/ James Guidera

Name: James Guidera

Title: Managing Director

By: /s/ Martin C. Livingston

Name: Martin C. Livingston

Title: Managing Director

Address for Notices:

1301 Avenue of the Americas

New York, NY 10019-6022

Attn: Project Finance Group

Telephone: 212-261-7882

Fax: 212-261-3421

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CREDIT INDUSTRIEL ET COMMERCIAL

By: /s/ Lionel Walter  
Name: Lionel Walter  
Title: Senior Vice President

By: /s/ Mark D. Palin  
Name: Mark D. Palin  
Title: Vice President

Address for Notices:

4 rue Gaillon  
75107 Paris Cedex 02  
FRANCE  
Attn: Mark D. Palin

Telephone: 33-1-42-66-76-27  
Fax: 33-1-42-66-78-38

With a Copy to:

4 rue Gaillon  
75107 Paris Cedex 02  
FRANCE  
Attn: Annick Kellerhals

Telephone: 33-1-42-66-70-77  
Fax: 33-1-42-66-78-97

By: /s/ Peter Bahn

Name: Peter Bahn  
Title: Vice President

By: /s/ Stephan Wagner

Name: Stephan Wagner  
Title: Director

Address for Notices:

Taunusanlage 10  
60329 Frankfurt am Main  
Germany  
Attn: Peter Bahn

Telephone: 49-69-7147-2586  
Fax: 49-69-7147-3809



---

DNB NOR BANK ASA

By: /s/ Kevin O'Hara  
Name: Kevin O'Hara  
Title: Vice President

By: /s/ Giacomo Landi  
Name: Giacomo Landi  
Title: First Vice President

Address for Notices:

200 Park Avenue  
31<sup>st</sup> Floor  
New York, NY 10166  
Attn: Stig Kristiansen

Telephone: 212-681-3865  
Fax: 212-681-3900

---

DVB BANK AG

By: /s/ Burkhard Egbers  
Name: Burkhard Egbers  
Title: Vice President

By: /s/ Marcel Besier  
Name: Marcel Besier  
Title: Vice President

Address for Notices:

Friedrich Ebert Anlage  
60325 Frankfurt  
Germany  
Attn: Eckhard Aschermann

Telephone: 49-69-97504-7933  
Fax: 49-69-97504-477

With a Copy to:

Friedrich Ebert Anlage  
60325 Frankfurt  
Germany  
Attn: Dr. Christoph Tomas

Telephone: 49-69-97504 117  
Fax: 49-69-97504 323

---

ERSTE BANK DER OESTERREICHISCHEN  
SPARKASSEN AG

By: /s/ John Fay

Name: John Fay

Title: Director

By: /s/ Patrick W. Kunkel

Name: Patrick W. Kunkel

Title: Director

Address for Notices:

280 Park Avenue – West Building

New York, NY 10017

Attn: Patrick Kunkel

Telephone: 212-984-5637

Fax: 212-984-5627

---

FORTIS CAPITAL CORP.

By: /s/ Trond Rokholt  
Name: Trond Rokholt  
Title: Managing Director

By: /s/ William Marder  
Name: William Marder  
Title: Vice President

Address for Notices:

3 Stamford Plaza  
301 Tresser Boulevard, 9<sup>th</sup> Floor  
Stamford, CT 06901-3239  
Attn: David James

Telephone: 203-705-5749  
Fax: 203-705-5919

With a Copy to:

3 Stamford Plaza  
301 Tresser Boulevard, 9<sup>th</sup> Floor  
Stamford, CT 06901-3239  
Attn: Paul Naumann

Telephone: 203-705-5791  
Fax: 203-705-5919

---

GENERAL ELECTRIC CAPITAL CORPORATION

By: /s/ Stephen Petricone  
Name: Stephen Petricone  
Title: Authorized Signatory

Address for Notices:

120 Long Ridge Rd.  
Stamford, CT 06927-0001  
Attn: Doug Sciallo

Telephone: 203-357-6822  
Fax: 203-961-5861

By: /s/ Jose Aldeanueva

Name: Jose Aldeanueva  
Title: Senior Vice President

Address for Notices:

---

ING CAPITAL LLC

By: /s/ Michael Zander

Name: Michael Zander

Title: Managing Director

Address for Notices:

1325 Avenue of the Americas

8<sup>th</sup> Floor

New York, NY 10019

Attn: Subha Pasumarti

Telephone: 646-424-7769

Fax: 646-424-7484

---

KFW

By: /s/ Ulrich Goretzki

Name: Ulrich Goretzki

Title: Vice President

By: /s/ Margrit Nzuki

Name: Margrit Nzuki

Title: Senior Project Manager

Address for Notices:

Palmengartenstr, 5-9

50325 Frankfurt a M.

Germany

Attn: Margrit Nzuki

Telephone: 49-69-7431-2474

Fax: 49-69-7431-2016





By: /s/ Daniel A. Leech  
Name: Daniel A. Leech  
Title: SVP

By: /s/ P.J. Kirkman  
Name: P.J. Kirkman  
Title: Vice President

Address for Notices:

420 Fifth Avenue, 24<sup>th</sup> Floor  
New York, NY 10018-2729  
Attn: Phillip J. Kirkman

Telephone: 212-703-5319  
Fax: 212-703-5256

With a Copy to:

420 Fifth Avenue, 24<sup>th</sup> Floor  
New York, NY 10018-2729  
Attn: David Leech

Telephone: 212.703.6303  
Fax:

---

LANDESBANK SAAR

By: /s/ Johannes Klumpe  
Name: Johannes Klumpe  
Title: Assistant Vice President

By: /s/ Ulrich Hildebrandt  
Name: Ulrich Hildebrandt  
Title: Senior Vice President

Address for Notices:

Ursulinenstraße 2  
D-66111 Saarbrücken  
Germany  
Attn: Johannes Klumpp

Telephone: 49-68-1383-1441  
Fax: 49-68-1383-1208

With a Copy to:

Ursulinenstraße 2  
D-66111 Saarbrücken  
Germany  
Attn: Hans Jürgen Schmidt

Telephone: 49-68-1383-1371  
Fax: 49-68-1383-1234

By: /s/ Tanja Reiter  
Name: Tanja Reiter  
Title: VP

By: /s/ Izag Morlock  
Name: Izag Morlock  
Title: VP

Address for Notices:

Am Hauptbahnhof 2  
70173 Stuttgart  
Germany  
Attn: Verena Weber

Telephone: 49-71-1127-49707  
Fax: 49-71-1127-49747

With a Copy to:

Am Hauptbahnhof 2  
70173 Stuttgart  
Germany  
Attn: Michael Thier

Telephone: 49-71-1127-23941  
Fax: 49-71-1127-21687

---

LLOYDS TSB BANK PLC

By: /s/ Paul D. Briamonte

Name: Paul D. Briamonte

Title: Director-Project Financa (USA) B374

By: /s/ Cherian Thomas

Name: Cherian Thomas

Title: Project Finance T-011

Address for Notices:

1251 Avenue of the Americas

39<sup>th</sup> Floor

New York, NY 10020

Attn: Paul Briamonte

Telephone: 212-930-8904

Fax: 212-930-5098

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MALAYAN BANKING BERHAD

By: /s/ Fauzi Zulkifli

Name: Fauzi Zulkifli

Title: General Manager

Address for Notices:

S-25

AMENDED AND RESTATED CREDIT AGREEMENT

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MIZUHO CORPORATE BANK, LTD.

By: /s/ Ashok Gupta  
Name: Ashok Gupta  
Title: Senior Vice President

Address for Notices:

1251 Avenue of the Americas  
New York, NY 10020-1104  
Attn: Hiroe Nikaido

Telephone: 212-282-3552  
Fax: 212-282-3618

With a Copy to:

1251 Avenue of the Americas  
New York, NY 10020-1104  
Attn: Ashok Gupta

Telephone: 212.282.3692  
Fax: 212.354.7205

---

NATEXIS BANQUES POPULAIRES

By: /s/ Amit Roy

Name: Amit Roy

Title: Vice President

By: /s/ Anadi Jauhari

Name: Anadi Jauhari

Title: Group Manager

Address for Notices:

1251 Avenue of the Americas

34<sup>th</sup> Floor

New York, NY 10020

Attn: Amit Roy

Telephone: 212-872-5123

Fax: 212-872-5162



---

NORDDEUTSCHE LANDESBANK GIROZENTRALE, NEW  
YORK BRANCH

By: /s/ Bauno J-M Mejean

Name: Bauno J-M Mejean

Title: Senior Vice President

By: /s/ Stefanie Scholz

Name: Stefanie Scholz

Title: Vice President

Address for Notices:

1114 Avenue of the Americas, 37<sup>th</sup> Fl.

New York, NY 10036

Attn: Stefanie Scholz

Telephone: 212-812-6834

Fax: 212-812-6888

---

SANPAOLO IMI S.P.A.

By: /s/ Carlo Persico  
Name: Carlo Persico  
Title: CEO for the Americas

By: /s/ Renato Carducci  
Name: Renato Carducci  
Title: G.M.

Address for Notices:

18-24 Warwick Lane  
Paternoster Square  
London EC4M 7LZ  
England  
Attn: Mark Cameron

Telephone: 44 0207 214-8027  
Fax: 44 0207 236-2698

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SOCIÉTÉ GÉNÉRALE

By: /s/ Leon Valeka

Name: Leon Valeka

Title: Director

Address for Notices:

S-30

AMENDED AND RESTATED CREDIT AGREEMENT

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SKANDINAVISKA ENSKILDA BANKEN AB  
(PUBL)

By: /s/ Kristian Andersson  
Name: Kristian Andersson  
Title:

By: /s/ Bemd Neuerer  
Name: Bemd Neuerer  
Title:

Address for Notices:  
Ulmenstrasse 30  
D-60283 Frankfurt/Main, Germany  
Attn: Peter Wikström  
Telephone: 49-69-258-5758  
Fax: 49-69-258-5513

---

STANDARD CHARTERED BANK

By: /s/ Gordon Hough  
Name: Gordon Hough  
Title: Senior Vice President

By: /s/ Andrew Y. Ng  
Name: Andrew Y. Ng  
Title: Vice President Standard Chartered Bank NY

Address for Notices:

One Madison Avenue, 3<sup>rd</sup> Floor  
New York, NY 10010  
Attn: Jowser De La Merced  
Telephone: 212-667-0211  
Fax: 212-667-0272

With a Copy to:

One Madison Avenue, 3<sup>rd</sup> Floor  
New York, NY 10010  
Attn: Paul Clifford  
Telephone: 212.667.0246  
Fax: 212.667.0272

---

SUMITOMO MITSUI BANKING CORPORATION

By: /s/ William M. Ginn

Name: William M. Ginn

Title: General Manager

Address for Notices:

Sumitomo Mitsui Banking Corp., New York

277 Park Avenue

New York, NY 10172

Attn: Kyle Blake

Telephone: 212-224-4189

Fax: 212-224-5222

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UNION BANK OF CALIFORNIA, N.A.

By: /s/ Bryan Read

Name: Bryan Read

Title: Vice President

Address for Notices:

445 S. Figueroa Street, 15<sup>th</sup> Floor

Los Angeles, CA 90071

Attn: Chad Canfield

Telephone: 213-236-6175

Fax: 213-236-4096

With a Copy to:

445 S. Figueroa Street, 15<sup>th</sup> Floor

Los Angeles, CA 90071

Attn: Bryan Read

Telephone: 213-236-4128

Fax: 213-236-4096

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WESTLB AG, NEW YORK BRANCH

By: /s/ Richard J. Pearce

Name: Richard J. Pearce

Title: Executive Director

By: /s/ Salvatore Battinelli

Name: Salvatore Battinelli

Title: Managing Director

Address for Notices:

1211 Avenue of the Americas

New York, NY 10036

Attn: Paul Verdi

Telephone: 212-852-6132

Fax: 212-852-6148



LENDER COMMITMENTS

Institution	Commitment of Phase 1 Allocation	Loan Outstanding of Phase 1 Allocation	Commitment of Phase 2 Allocation	Total Commitment
Bayerische Landesbank	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Calyon New York Branch	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
Credit Industriel et Commercial	\$ 22,219,267.67	\$ 4,072,667.67	\$ 14,708,067.67	\$ 41,000,000.00
DekaBank Deutsche Girozentrale	\$ 22,219,267.67	\$ 4,072,666.67	\$ 14,708,067.67	\$ 41,000,000.00
DnB NOR Bank ASA	\$ 22,219,267.67	\$ 4,072,667.67	\$ 14,708,067.67	\$ 41,000,000.00
DVB Bank AG	\$ 30,348,266.67	\$ 5,562,666.67	\$ 20,089,066.67	\$ 56,000,000.00
Erste Bank der Oesterreichischen Sparkassen AG	\$ 6,503,200.00	\$ 1,192,000.00	\$ 4,304,800.00	\$ 12,000,000.00
Fortis Capital Corp.	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
General Electric Capital Corporation	\$ 30,348,266.67	\$ 5,562,666.67	\$ 20,089,066.67	\$ 56,000,000.00
HSBC Bank USA, National Association	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
ING Capital LLC	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
KfW	\$ 30,348,266.67	\$ 5,562,666.67	\$ 20,089,066.67	\$ 56,000,000.00
Landesbank Baden-Württemberg	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Landesbank Hessen-Thüringen	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Landesbank Saar	\$ 8,129,000.00	\$ 1,490,000.00	\$ 5,381,000.00	\$ 15,000,000.00
Lloyds TSB Bank plc	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Malayan Banking Berhad	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
Mizuho Corporate Bank, Ltd.	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Natexis Banques Populaires	\$ 6,503,200.00	\$ 1,192,000.00	\$ 4,304,800.00	\$ 12,000,000.00
Norddeutsche Landesbank Girozentrale, New York Branch	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Sanpaolo IMI S.p.A.	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
Santander Central Hispano S.A., New York Branch	\$ 30,348,266.67	\$ 5,562,666.67	\$ 20,089,066.67	\$ 56,000,000.00
Skandinaviska Enskilda Banken AB (publ)	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
Société Générale	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Standard Chartered Bank	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
Sumitomo Mitsui Banking Corporation	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
The Bank of Nova Scotia	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00

Institution	Loan			Total Commitment
	Commitment of Phase 1 Allocation	Outstanding of Phase 1 Allocation	Commitment of Phase 2 Allocation	
The Governor & Co. of the Bank of Ireland	\$ 35,767,600.00	\$ 6,556,000.00	\$ 23,676,400.00	\$ 66,000,000.00
Union Bank of California, N.A.	\$ 10,296,733.33	\$ 1,887,333.33	\$ 6,815,933.33	\$ 19,000,000.00
WestLB AG, New York Branch	\$ 22,219,266.67	\$ 4,072,666.67	\$ 14,708,066.67	\$ 41,000,000.00
<b>Total</b>	<b>\$ 812,900,000</b>	<b>\$ 149,000,000</b>	<b>\$ 538,100,000</b>	<b>\$ 1,500,000,000</b>

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APPENDIX A  
TO CREDIT AGREEMENT

AMORTIZATION SCHEDULE

Principal Payment Dates <sup>1</sup>	% of Principal of each Lender's Loans Outstanding on the Term Conversion Date
1	1.40929%
2	1.45326%
3	1.49860%
4	1.54535%
5	1.59357%
6	1.64329%
7	1.65775%
8	1.71155%
9	1.76709%
10	1.82443%
11	1.88363%
12	1.94476%

<sup>1</sup> Depending on the timing of the occurrence of the Term Conversion Date there may be fewer than 12 Principal Payment Dates, since no Principal Payment Date may occur later than the Final Maturity Date, July 1, 2015, at which time all unpaid principal of each Loan shall be due and payable in accordance with the terms of the Amended and Restated Credit Agreement

WIRE TRANSFER DETAILS OF AGENT

Agent: Société Générale  
ABA: 026004226 or CHIPS #422  
Name of Account: Loan Servicing Group  
Account Number: 9051422  
Attention: Elise Cheung

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APPENDIX C  
TO CREDIT AGREEMENT

PROJECT DOCUMENTS WITH AFFILIATES

1. Operation and Maintenance Agreement, dated as of February 25, 2005, between Cheniere LNG O&M Services, L.P., and Sabine Pass LNG, L.P.
2. Management Services Agreement, dated as of February 25, 2005, between Sabine Pass LNG-GP, Inc., and Sabine Pass LNG, L.P.
3. J & S Cheniere Terminal Use Agreement.
4. Cheniere LNG Marketing, Inc. Terminal Use Agreement.

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APPENDIX D  
TO CREDIT AGREEMENT

LEASE AGREEMENTS

1. Lease Agreement, dated January 15, 2005, among Crain Brothers Ranch, Inc., Marguerite Domatti as Trustee of M.A. Domatti Management Trust, Eva L. Domatti, individually and as Trustee, Domatti Family Living Trust, Erika Domatti and Renata Domatti, collectively as Lessor, and Sabine Pass LNG, L.P., as Lessee, amended by that Amendment to Lease, dated as of February 24, 2005, among Lessor and Lessee.
2. Lease Agreement, dated January 15, 2005, between Crain Lands, L.L.C., as Lessor and Sabine Pass LNG, L.P., as Lessee, as amended by that Amendment to Lease, dated as of February 24, 2005, among Lessor and Lessee, and as further amended by the Second Amendment to Lease.
3. Commercial Water Bottom Lease, dated February 24, 2005, between the State of Louisiana, as lessor and Sabine Pass LNG, L.P., as lessee.
4. Lease Agreement, dated January 15, 2005, between George A. Davis, et al., as Lessors, and Sabine Pass LNG, L.P., as Lessee, recorded on February 25, 2005, in Conveyance Book 999 under Entry No. 291103 of the records of Cameron Parish, Louisiana, as amended by that certain Amendment to Lease dated effective February 24, 2005, by and between George A. Davis, et al., as Lessors, and Sabine Pass LNG, L.P., as Lessee, recorded January 5, 2006, under File No. 295504, of the records of Cameron Parish, Louisiana.

PHASE 1 CONSTRUCTION BUDGET AND SCHEDULE  
AND  
PHASE 2 CONSTRUCTION BUDGET AND SCHEDULE

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APPENDIX F-1  
TO CREDIT AGREEMENT

[Form of Notice of Borrowing]

NOTICE OF BORROWING NO. [\_\_\_\_\_]

[Notices to be numbered consecutively in the order of the date of the Notices for each Loan]

Reference is made to the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

This Notice of Borrowing (this "Notice") is issued in connection with Borrowing Certificate No. [\_\_\_\_\_] and is delivered to the Agent at least three Business Days prior to the date of the proposed borrowing pursuant to Sections 2.02 and 4.05 of the Credit Agreement and in accordance with Section 4.04 of the Credit Agreement.

The Borrower hereby irrevocably requests a borrowing under the Credit Agreement, as follows:

(a)	Requested Borrowing Date:	[_____]
(b)	Requested Loan:	
	a. Amount:	\$ [_____]
	b. Phase 1 Allocation:	\$ [_____]
	c. Phase 2 Allocation:	\$ [_____]
	d. Interest Period:	[_____]
(c)	Construction Accounts:	
	a. Amount to be deposited into Phase 1 Construction Account:	\$ [_____]
	b. Amount to be deposited into Phase 2 Construction Account:	\$ [_____]



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IN WITNESS WHEREOF, the undersigned has executed this Notice this [ ] day of [ ].

SABINE PASS LNG, L.P.

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

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT A  
TO CREDIT AGREEMENT

[Part 1 - Form of Borrowing Certificate in respect of a Phase 1 Loan]

BORROWING CERTIFICATE NO. [ ], dated as of date of proposed borrowing  
[Certificates to be numbered consecutively in the order of the dates of the Certificates]  
Proposed borrowing date is [ ]

Reference is made to the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement"), among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

Pursuant to Section 6.03(d) of the Credit Agreement, the Borrower is hereby submitting this Borrowing Certificate (the "Borrowing Certificate"), dated as of the proposed borrowing date set forth above. The Borrower intends to submit a Notice of Borrowing in connection with the proposed borrowing at least three Business Days prior to the proposed borrowing date pursuant to Section 4.05 of the Credit Agreement.

The Borrower hereby certifies after due inquiry, that:

1. Attached as Appendix I to this Borrowing Certificate is the Phase 1 Construction Report and accompanying certificate of an Authorized Officer of the Borrower required to be delivered by the Borrower to the Agent pursuant to Section 8.19 of the Credit Agreement.

2. (i) The amount of the Phase 1 Loan requested pursuant to the Notice of Borrowing referred to above shall not, when taken together with each other Phase 1 Loan, exceed the Phase 1 Allocation, and the total amount of Phase 1 Loans requested prior to the date hereof including the amount of the Phase 1 Loan requested pursuant to the Borrowing Certificate referred to above is \$[ ];

(ii) the amount of each Phase 1 Loan requested by the Borrower on the date of the Borrowing Certificate shall not exceed the sum (without duplication) of:

(A) the Phase 1 Project Costs due and to be paid on or prior to the date of the proposed borrowing or reasonably expected to be due or incurred within the

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<sup>1</sup> To be provided where a Phase 1 Loan is requested.

next 30 days succeeding the date of the proposed borrowing (without duplication of any other Borrowing Certificate);

(B) the Required Debt Service Reserve Amount, if then applicable; and

(C) any Operation and Maintenance Expense to be paid on or prior to the date of the proposed borrowing or reasonably expected to be due or incurred within the next 30 days succeeding the date of the proposed borrowing (without duplication of any other Borrowing Certificate); provided, that (x) no cost overruns shall have occurred and be continuing which could reasonably be expected to result in Project Costs in excess of funds available to pay such Project Costs and (y) the loan proceeds to be disbursed shall be reduced in accordance with the proviso to paragraph 4 below;

provided, that the calculation of such sum shall only include amounts with respect to the Required Debt Service Reserve Amount and Operation and Maintenance Expense to the extent that they are not included in the equivalent calculation made pursuant to paragraph 2 of part 2 of the Borrowing Certificate for a Phase 2 Loan.

3. The Borrower hereby (a) attaches hereto, or has previously provided to the Agent and the Independent Engineer, a copy of all monthly invoices issued under the Phase 1 EPC Contract and all invoices in connection with any other Phase 1 Project Costs and Operation and Maintenance Expenses which the Borrower intends to pay with the Phase 1 Loan proceeds as set forth in Appendix II attached hereto; (b) sets forth projections of invoices expected to be received within 30 days after the date hereof under the Phase 1 EPC Contract and any other Phase 1 Project Costs which the Borrower intends to pay with such Phase 1 Loan proceeds, as evidence of the Phase 1 Project Costs related to this Borrowing Certificate; and (c)(i) attaches hereto, or has previously provided to the Agent and the Independent Engineer, copies of invoices and related documents for Phase 1 Project Costs evidencing the complete use of the Phase 1 Loan proceeds borrowed for the payment of Phase 1 Project Costs as set forth in the previous Borrowing Certificate or (ii) certifies that the Phase 1 Loan proceeds borrowed in the preceding month and not expended during such month shall be expended during the current month, as set forth in Appendix II attached hereto, in each case satisfactory to the Independent Engineer. The Borrower intends to apply the proceeds of the Phase 1 Loans requested pursuant to this Borrowing Certificate to the payment of the Phase 1 Project Costs listed on Appendix II to this Borrowing Certificate or to other Phase 1 Project Costs permitted under the Credit Agreement. No item shown on Appendix II has been heretofore paid for with the proceeds of any previous Loan.

4. The Borrower (a) has applied the proceeds of the prior Phase 1 Loans to the payment of Phase 1 Project Costs as such were listed on Appendix II attached to the preceding Borrowing Certificate or, in respect of any disputed amounts, deposited to the Escrow Account or retained in the Phase 1 Construction Account pending resolution of the dispute, (b) reasonably expects that it will apply such proceeds from prior Phase 1 Loans to the Phase 1 Project Costs listed on Appendix III hereto within the next 30 days or, in respect of any disputed amounts, deposited to the Escrow Account or retained in

the Phase 1 Construction Account pending resolution of the dispute, or (c) to the extent such proceeds were not so applied and are not reasonably expected to be so applied during the next 30 days, such proceeds have been, or are being, applied as a reduction to the current Notice of Borrowing in an amount equal to the proceeds of Phase 1 Loans not previously expended or, in respect of any disputed amounts, deposited to the Escrow Account or retained in the Phase 1 Construction Account pending resolution of the dispute, and not contemplated to be spent pursuant to clause (b) of this paragraph; provided, that in no event shall the amount in the applicable Notice of Borrowing be reduced below \$2,000,000.

5. Attached as Appendix IV to this Borrowing Certificate is a complete and accurate listing of all approved, pending, and proposed Phase 1 Change Orders, together with copies of all such Phase 1 Change Orders not previously delivered to the Agent. With respect to each of these Phase 1 Change Orders, (a) the ability to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date has not been adversely and materially affected and (b) no cost overruns shall have occurred and be continuing which could reasonably be expected to result in Phase 1 Project Costs exceeding the funds then available to pay such Phase 1 Project Costs.

6. With respect to invoices submitted in connection with the proposed borrowing, the Borrower has reviewed the work performed, services rendered and material, equipment or supplies delivered to date (either directly or in reliance on sources of information deemed reliable by the Borrower), and the amounts that have been paid or are to be paid are proper (and in the case of payments being made to the Phase 1 EPC Contractor under the Phase 1 EPC Contract, are being made in accordance with the provisions of the Phase 1 EPC Contract).

7. Phase 1 is reasonably expected to achieve Substantial Completion by the Guaranteed Substantial Completion Date and sufficient funds exist in order to achieve Substantial Completion.

8. Attached as Appendix V to this Borrowing Certificate are (a) copies of the applicable lien waivers executed by the Phase 1 EPC Contractor as contemplated by the Phase 1 EPC Contract in respect of the current monthly invoice in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) and (b) evidence that the Phase 1 EPC Contractor has received the applicable interim lien waivers in respect of the current invoices in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) from all of its principal subcontractors and principal sub-subcontractors, which interim lien waivers shall be satisfactory to the Agent and the Independent Engineer.

9. This Borrowing Certificate (and each of the statements contained herein) is intended to be for the sole and express benefit of the Agent and the other Secured Parties and is not intended to be for the benefit of, or to be enforceable by, the Phase 1 EPC Contractor or any subcontractor.

10. The conditions precedent in Sections 6.01 and 6.03 of the Credit Agreement have been satisfied.

11. (a) Each of the representations and warranties of the Borrower contained in Article VII of the Credit Agreement is (i) if such representation and warranty is qualified as to materiality or by reference to the existence of a Material Adverse Effect, true and complete to the extent of such qualification on and as of the date of the proposed borrowing (both immediately prior to such proposed borrowing and also after giving effect to such proposed borrowing and to the intended use of such proposed borrowing) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) or (ii) if such representation and warranty is not so qualified, true and complete in all material respects on and as of the date of such proposed borrowing (both immediately prior to such proposed borrowing and also after giving effect to such proposed borrowing and to the intended use of such proposed borrowing) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date), (b) no Default or Event of Default has occurred and is continuing as of the date of such disbursement and no Default or Event of Default will result from the requested disbursement or the consummation of the transactions contemplated by the Transaction Documents, (c) no act, event or circumstance affecting the Borrower has arisen that could reasonably be expected to have a Material Adverse Effect and (d) the Collateral is subject to the perfected first priority Lien (subject only to Permitted Liens) and the security interest established pursuant to the Security Documents.

12. No Suspension of Phase 1 has occurred that is continuing on the date hereof.

The Borrower hereby certifies, after due inquiry, that the facts stated by the Borrower in this Borrowing Certificate are true and complete.

SABINE PASS LNG, L.P.

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

By: \_\_\_\_\_  
Name:  
Title:

[CONSTRUCTION REPORT]

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EXHIBIT B-1  
TO CREDIT AGREEMENT

[LIST PHASE 1 PROJECT COSTS BY ITEM AND AMOUNT]

[Copies of monthly invoices (i) under Phase 1 EPC Contract, (ii) in connection with Phase 1 Project Costs, and (iii) in connection with Operation and Maintenance Expenses, if necessary]

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EXHIBIT B-1  
TO CREDIT AGREEMENT

[DESCRIPTION OF OTHER PHASE 1 PROJECT COSTS THAT WERE LISTED ON PRIOR  
APPENDIX II THAT ARE EXPECTED TO BE PAID DURING THE UPCOMING MONTH]

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EXHIBIT B-1  
TO CREDIT AGREEMENT



[LIST AND DESCRIBE ANY “PHASE 1 CHANGE ORDERS”]  
[ATTACH EXHIBIT “A”, IF NECESSARY, TO EXPLAIN ANY DEVIATIONS  
FROM THE PHASE 1 CONSTRUCTION BUDGET AND SCHEDULE]

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EXHIBIT B-1  
TO CREDIT AGREEMENT

LIEN WAIVERS EXECUTED

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EXHIBIT B-1  
TO CREDIT AGREEMENT

[Part 2 - Form of Borrowing Certificate in respect of a Phase 2 Loan]

BORROWING CERTIFICATE NO. [ ], dated as of date of proposed borrowing  
[Certificates to be numbered consecutively in the order of the dates of the Certificates]  
Proposed borrowing date is [ ]

Reference is made to the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement"), among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

Pursuant to Section 6.03(d) of the Credit Agreement, the Borrower is hereby submitting this Borrowing Certificate (the "Borrowing Certificate"), dated as of the proposed borrowing date set forth above. The Borrower intends to submit a Notice of Borrowing in connection with the proposed borrowing at least three Business Days prior to the proposed borrowing date pursuant to Section 4.05 of the Credit Agreement.

The Borrower hereby certifies after due inquiry, that:

1. Attached as Appendix I to this Borrowing Certificate is the Phase 2 Construction Report and accompanying certificate of an Authorized Officer of the Borrower required to be delivered by the Borrower to the Agent pursuant to Section 8.19 of the Credit Agreement.

2. (i) The amount of the Phase 2 Loan requested pursuant to the Notice of Borrowing referred to above shall not, when taken together with each other Phase 2 Loan, exceed the Phase 2 Allocation, and the total amount of Phase 2 Loans requested prior to the date hereof including the amount of the Phase 2 Loan requested pursuant to the Borrowing Certificate referred to above is \$[ ];

(ii) the amount of each Phase 2 Loan requested by the Borrower on the date of the Borrowing Certificate shall not exceed the sum (without duplication) of:

(A) the Phase 2 Project Costs due and to be paid on or prior to the date of the proposed borrowing or reasonably expected to be due or incurred within the

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<sup>1</sup> To be provided where a Phase 2 Loan is requested.

next 30 days succeeding the date of the proposed borrowing (without duplication of any other Borrowing Certificate);

(B) the Required Debt Service Reserve Amount, if then applicable; and

(C) any Operation and Maintenance Expense to be paid on or prior to the date of the proposed borrowing or reasonably expected to be due or incurred within the next 30 days succeeding the date of the proposed borrowing (without duplication of any other Borrowing Certificate); provided, that (x) no cost overruns shall have occurred and be continuing which could reasonably be expected to result in Project Costs in excess of funds available to pay such Project Costs and (y) the loan proceeds to be disbursed shall be reduced in accordance with the proviso to paragraph 4 below;

provided, that the calculation of such sum shall only include amounts with respect to the Required Debt Service Reserve Amount and Operation and Maintenance Expense to the extent that they are not included in the equivalent calculation made pursuant to paragraph 2 of part 1 of the Borrowing Certificate for a Phase 1 Loan.

3. The Borrower hereby (a) attaches hereto, or has previously provided to the Agent and the Independent Engineer, a copy of all monthly invoices issued under each Phase 2 Construction Contract and all invoices in connection with any other Phase 2 Project Costs and Operation and Maintenance Expenses which the Borrower intends to pay with the Phase 2 Loan proceeds as set forth in Appendix II attached hereto; (b) sets forth projections of invoices expected to be received within 30 days after the date hereof under each Phase 2 Construction Contract and any other Phase 2 Project Costs which the Borrower intends to pay with such Phase 2 Loan proceeds, as evidence of the Phase 2 Project Costs related to this Borrowing Certificate; and (c)(i) attaches hereto, or has previously provided to the Agent and the Independent Engineer, copies of invoices and related documents for Phase 2 Project Costs evidencing the complete use of the Phase 2 Loan proceeds borrowed for the payment of Phase 2 Project Costs as set forth in the previous Borrowing Certificate or (ii) certifies that the Phase 2 Loan proceeds borrowed in the preceding month and not expended during such month shall be expended during the current month, as set forth in Appendix I attached hereto, in each case satisfactory to the Independent Engineer. The Borrower intends to apply the proceeds of the Phase 2 Loans requested pursuant to this Borrowing Certificate to the payment of the Phase 2 Project Costs listed on Appendix II to this Borrowing Certificate or to other Phase 2 Project Costs permitted under the Credit Agreement. No item shown on Appendix II has been heretofore paid for with the proceeds of any previous Loan.

4. The Borrower (a) has applied the proceeds of the prior Phase 2 Loans to the payment of Phase 2 Project Costs as such were listed on Appendix II attached to the preceding Borrowing Certificate or, in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute, (b) reasonably expects that it will apply such proceeds from prior Phase 2 Loans to the Phase 2 Project Costs listed on Appendix III hereto within the next 30 days or, in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute,

or (c) to the extent such proceeds were not so applied and are not reasonably expected to be so applied during the next 30 days, such proceeds have been, or are being, applied as a reduction to the current Notice of Borrowing in an amount equal to the proceeds of Phase 2 Loans not previously expended or, in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute, and not contemplated to be spent pursuant to clause (b) of this paragraph; provided, that in no event shall the amount in the applicable Notice of Borrowing be reduced below \$2,000,000.

5. [With respect to any Phase 2 Change Order, the Borrower certifies that, after giving effect to such Phase 2 Change Order or payment in respect thereof, the Borrower shall be in compliance with the Financing Documents.]

6. With respect to invoices submitted in connection with the proposed borrowing, the Borrower has reviewed the work performed, services rendered and material, equipment or supplies delivered to date (either directly or in reliance on sources of information deemed reliable by the Borrower), and the amounts that have been paid or are to be paid are proper.

7. Attached as Appendix IV to this Borrowing Certificate are (a) copies of the applicable interim lien waivers executed by each Phase 2 Construction Contractor, as contemplated by each Phase 2 Construction Contractor, in respect of the current monthly invoice in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) and (b) evidence that each Phase 2 Construction Contractor has received the applicable interim lien waivers in respect of the current invoices in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) from each of its principal subcontractors and principal sub-subcontractors, if any, which interim lien waivers shall be satisfactory to the Agent and the Independent Engineer.

8. This Borrowing Certificate (and each of the statements contained herein) is intended to be for the sole and express benefit of the Agent and the other Secured Parties and is not intended to be for the benefit of, or to be enforceable by, any Phase 2 Construction Contractor or any subcontractor.

9. The conditions precedent in Sections 6.01, 6.02 and 6.03 of the Credit Agreement have been satisfied. With respect to the initial borrowing of a Phase 2 Loan, the amount of Phase 2 Project Costs paid by or on behalf of the Borrower through the date hereof is [\$\_\_\_\_\_] and the amount scheduled to be spent on Phase 2 Project Costs during the next 30 days is [\$\_\_\_\_\_].<sup>2</sup>

10. (a) Each of the representations and warranties of the Borrower contained in Article VII of the Credit Agreement is (i) if such representation and warranty is qualified as to materiality or by reference to the existence of a Material Adverse Effect,

<sup>2</sup> To be included only in connection with the initial Phase 2 borrowing.

true and complete to the extent of such qualification on and as of the date of the proposed borrowing (both immediately prior to such proposed borrowing and also after giving effect to such proposed borrowing and to the intended use of such proposed borrowing) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) or (ii) if such representation and warranty is not so qualified, true and complete in all material respects on and as of the date of such proposed borrowing (both immediately prior to such proposed borrowing and also after giving effect to such proposed borrowing and to the intended use of such proposed borrowing) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date), (b) no Default or Event of Default has occurred and is continuing as of the date of such disbursement and no Default or Event of Default will result from the requested disbursement or the consummation of the transactions contemplated by the Transaction Documents, (c) no act, event or circumstance affecting the Borrower has arisen that could reasonably be expected to have a Material Adverse Effect and (d) the Collateral is subject to the perfected first priority Lien (subject only to Permitted Liens) and the security interest established pursuant to the Security Documents.

11. No Suspension of Phase 1 has occurred that is continuing on the date hereof.

The Borrower hereby certifies, after due inquiry, that the facts stated by the Borrower in this Borrowing Certificate are true and complete.

SABINE PASS LNG, L.P.

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

By: \_\_\_\_\_  
Name:  
Title:

[CONSTRUCTION REPORT]

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EXHIBIT B-1  
TO CREDIT AGREEMENT

[LIST PHASE 2 PROJECT COSTS BY ITEM AND AMOUNT]

[Copies of monthly invoices (i) under each Phase 2 Construction Contract, (ii) in connection with Phase 2 Project Costs and (iii) in connection with Operation and Maintenance Expenses, if necessary]

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EXHIBIT B-1  
TO CREDIT AGREEMENT



[DESCRIPTION OF OTHER PHASE 2 PROJECT COSTS THAT WERE LISTED ON PRIOR  
APPENDIX II THAT ARE EXPECTED TO BE PAID DURING THE UPCOMING MONTH]

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EXHIBIT B-1  
TO CREDIT AGREEMENT

LIEN WAIVERS EXECUTED

- 8 -

EXHIBIT B-1  
TO CREDIT AGREEMENT

[Form of Final Borrowing Certificate]

FINAL BORROWING CERTIFICATE NO. [ ], dated as of date of proposed borrowing  
[Certificates to be numbered consecutively in the order of the dates of the Certificates]  
Proposed borrowing date is [ ]

Reference is made to the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement"), among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the secured parties specified therein (in such capacity, together with its successors in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

Pursuant to Section 6.04(a) of the Credit Agreement, the Borrower is hereby submitting this Final Borrowing Certificate (this "Final Borrowing Certificate"), dated as of the proposed borrowing date set forth above. The Borrower intends to submit a Notice of Borrowing in connection with the proposed borrowing at least three Business Days prior to the proposed borrowing date pursuant to Section 4.05 of the Credit Agreement.

The Borrower hereby certifies after due inquiry, that:

1. Attached as Appendix I to this Final Borrowing Certificate is the Phase 1 Construction Report, the Phase 2 Construction Report and each accompanying certificate of an Authorized Officer of the Borrower required to be delivered by the Borrower to the Agent pursuant to Section 8.19 of the Credit Agreement.
2. (a) The amount of the Phase 1 Loan requested pursuant to the Notice of Borrowing referred to above shall not, when taken together with each other Phase 1 Loan, exceed the Phase 1 Allocation;
- (b) The amount of the final Phase 1 Loan requested pursuant to the Notice of Borrowing referred to above shall not exceed the sum of (i) Phase 1 Project Costs, if any, which are due and to be paid on or prior to the date of this Final Borrowing Certificate and which are reasonably expected to be due or incurred from the date of this Final Borrowing Certificate to Phase 1 Final Completion including Phase 1 Project Costs which are reasonably projected to be incurred for punch list items and payment retainage and disputed payments in each case as contemplated in the Phase 1 Construction Budget and Schedule (without duplication of any other Borrowing Certificate) and (ii) the Required Debt Service Reserve Amount, if then applicable; and

(c) The amount of the final Phase 2 Loan requested pursuant to the Notice of Borrowing referred to above is equal to the remaining undrawn amount of the Phase 2 Allocation plus the remaining undrawn amount of the Phase 1 Allocation (after the amounts required to be transferred to the Phase 1 Punchlist Retention Subaccount in accordance with the Amended and Restated Collateral Agency Agreement have been so transferred).

3. The Borrower hereby (a) attaches hereto, or has previously provided to the Agent and the Independent Engineer, a copy of all monthly invoices issued under (i) the Phase 1 EPC Contract and all invoices in connection with any other Phase 1 Project Costs which the Borrower intends to pay with any Phase 1 Loan proceeds and (ii) each Phase 2 Construction Contract and all invoices in connection with any other Phase 2 Project Costs which the Borrower intends to pay with any Phase 2 Loan proceeds, each as set forth in Appendix II attached hereto; (b) attaches hereto as Appendix VI, or has previously provided to the Agent and the Independent Engineer, a detailed breakdown of (i) each punchlist item and the cost associated thereto, (ii) payment retainage amounts, (iii) each disputed payment amount, in each case under the Phase 1 EPC Contract and (iv) the calculation of existing shortfall of the Required Debt Service Amount; (c)(i) attaches hereto, or has previously provided to the Agent and the Independent Engineer, copies of invoices and related documents for Phase 1 Project Costs evidencing the complete use of the Phase 1 Loan proceeds borrowed for the payment of Phase 1 Project Costs as set forth in the previous Borrowing Certificate or (ii) certifies that the Phase 1 Loan proceeds borrowed in the preceding month and not expended during such month shall be expended during the current month, as set forth in Appendix II attached hereto, (iii) attaches hereto, or has previously provided to the Agent and the Independent Engineer, copies of invoices and related documents for Phase 2 Project Costs evidencing the complete use of the Phase 2 Loan proceeds borrowed for the payment of Phase 2 Project Costs as set forth in the previous Borrowing Certificate or (iv) certifies that the Phase 2 Loan proceeds borrowed in the preceding month and not expended during such month shall be expended during the current month, as set forth in Appendix II attached hereto, in each case satisfactory to the Independent Engineer. The Borrower intends to apply the proceeds of the Phase 1 Loans and Phase 2 Loans requested pursuant to this Borrowing Certificate to the payment of the Phase 1 Project Costs and Phase 2 Project Costs, as applicable, each as listed on Appendix II to this Borrowing Certificate or to other Phase 1 Project Costs or Phase 2 Project Costs permitted under the Credit Agreement. No item shown on Appendix II has been heretofore paid for with the proceeds of any previous Loan.

4. The Borrower (a) has applied the proceeds of the prior Phase 1 Loans to the payment of Phase 1 Project Costs as such were listed on Appendix II attached to the preceding Borrowing Certificate or, in respect of any disputed amounts, deposited to the Escrow Account or retained in the Phase 1 Construction Account pending resolution of the dispute, (b) reasonably expects that it will apply such proceeds from prior Phase 1 Loans to the Phase 1 Project Costs listed on Appendix III hereto prior to Phase 1 Final Completion or, in respect of any disputed amounts, deposited to the Escrow Account or retained in the Phase 1 Construction Account pending resolution of the dispute, or (c) to the extent such proceeds were not so applied and are not reasonably expected to be so applied prior to Phase 1 Final Completion, such proceeds have been, or are being, applied

as a reduction to the current Notice of Borrowing in an amount equal to the proceeds of Phase 1 Loans not previously expended or, in respect of any disputed amounts, deposited to the Escrow Account or retained in the Phase 1 Construction Account pending resolution of the dispute, and not contemplated to be spent pursuant to clause (b) of this paragraph.

5. The Borrower (a) has applied the proceeds of the prior Phase 2 Loans to the payment of Phase 2 Project Costs as such were listed on Appendix II attached to the preceding Borrowing Certificate or, in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute, (b) reasonably expects that it will apply such proceeds from prior Phase 2 Loans to the Phase 2 Project Costs listed on Appendix III hereto prior to Phase 2 Completion or, in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute, or (c) to the extent such proceeds were not so applied and are not reasonably expected to be so applied prior to Phase 2 Completion, such proceeds have been, or are being, applied as a reduction to the current Notice of Borrowing in an amount equal to the proceeds of Phase 2 Loans not previously expended or, in respect of any disputed amounts, retained in the Phase 2 Construction Account pending resolution of the dispute, and not contemplated to be spent pursuant to clause (b) of this paragraph.

6. The projections of punch list items expected to be paid with the proceeds of the final Phase 1 Loan are in accordance with the Phase 1 Construction Budget and Schedule.

7. Attached as Appendix IV to this Borrowing Certificate is a complete and accurate listing of all approved, pending, and proposed Phase 1 Change Orders, together with copies of all such Phase 1 Change Orders not previously delivered to the Agent. With respect to each of these Phase 1 Change Orders, (a) the ability to achieve Phase 1 Final Completion in accordance with the Phase 1 Construction Budget and Schedule has not been adversely and materially affected and (b) no cost overruns shall have occurred and be continuing which could reasonably be expected to result in Phase 1 Project Costs exceeding the funds then available to pay such Phase 1 Project Costs. [With respect to any Phase 2 Change Order, the Borrower certifies that, after giving effect to such Phase 2 Change Order or payment in respect thereof, the Borrower shall be in compliance with the Financing Documents.]

8. With respect to invoices submitted in connection with the proposed borrowing, the Borrower has reviewed the work performed, services rendered and material, equipment or supplies delivered to date (either directly or in reliance on sources of information deemed reliable by the Borrower), and the amounts that have been paid or are to be paid are proper (and in the case of payments being made to the Phase 1 EPC Contractor under the Phase 1 EPC Contract, are being made in accordance with the provisions of the Phase 1 EPC Contract).

9. The Term Conversion Date has occurred.

10. Attached as Appendix V to this Borrowing Certificate are (a) the applicable interim lien waivers executed by the Phase 1 EPC Contractor and each Phase 2 Construction Contractor, as contemplated by the respective Phase 1 EPC Contract and each Phase 2 Construction Contract, in respect of the current monthly invoice and in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) and (b) evidence that the Phase 1 EPC Contractor and each of the Phase 2 Construction Contractors has received the applicable interim lien waivers in respect of the current invoices and in respect of all work (including services performed and materials provided) completed as of the date of the previous invoice (other than work in progress) from all of their principal subcontractors and principal sub-subcontractors, as contemplated by the respective Phase 1 EPC Contract and each Phase 2 Construction Contract, which interim lien waivers shall be satisfactory to the Agent and the Independent Engineer.

11. This Borrowing Certificate (and each of the statements contained herein) is intended to be for the sole and express benefit of the Agent and the other Secured Parties and is not intended to be for the benefit of, or to be enforceable by, the Phase 1 EPC Contractor, any Phase 2 Construction Contractor or any subcontractor.

12. The conditions precedent in Sections 6.03 and 6.04 of the Credit Agreement have been satisfied.

13. (a) Each of the representations and warranties of the Borrower contained in Article VII of the Credit Agreement is (i) if such representation and warranty is qualified as to materiality or by reference to the existence of a Material Adverse Effect, true and complete to the extent of such qualification on and as of the date of the proposed borrowing (both immediately prior to such proposed borrowing and also after giving effect to such proposed borrowing and to the intended use of such proposed borrowing) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) or (ii) if such representation and warranty is not so qualified, true and complete in all material respects on and as of the date of such proposed borrowing (both immediately prior to such proposed borrowing and also after giving effect to such proposed borrowing and to the intended use of such proposed borrowing) as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date), (b) no Default or Event of Default has occurred and is continuing as of the date of such disbursement and no Default or Event of Default will result from the requested disbursement or the consummation of the transactions contemplated by the Transaction Documents, (c) no act, event or circumstance affecting the Borrower has arisen that could reasonably be expected to have a Material Adverse Effect and (d) the Collateral is subject to the perfected first priority Lien (subject only to Permitted Liens) and the security interest established pursuant to the Security Documents.

14. No Suspension of Phase 1 has occurred that is continuing on the date hereof.

The Borrower hereby certifies, after due inquiry, that the facts stated by the Borrower in this Borrowing Certificate are true and complete.

---

SABINE PASS LNG, L.P.

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

By: \_\_\_\_\_

Name:

Title:

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EXHIBIT B-2  
TO CREDIT AGREEMENT

[PHASE 1 CONSTRUCTION REPORT AND PHASE 2 CONSTRUCTION REPORT]

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EXHIBIT B-2  
TO CREDIT AGREEMENT



[LIST PHASE 1 PROJECT COSTS AND PHASE 2 PROJECT COSTS BY ITEM AND AMOUNT]

[COPIES OF MONTHLY INVOICES, IF NECESSARY]

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EXHIBIT B-2  
TO CREDIT AGREEMENT

[DESCRIPTION OF OTHER PHASE 1 PROJECT COSTS AND PHASE 2 PROJECT COSTS  
THAT WERE LISTED ON PRIOR APPENDIX II THAT ARE EXPECTED TO BE PAID  
PRIOR TO PHASE 1 FINAL COMPLETION AND PHASE 2 COMPLETION, AS  
APPLICABLE]

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EXHIBIT B-2  
TO CREDIT AGREEMENT

[LIST AND DESCRIBE ANY “PHASE 1 CHANGE ORDERS”]

[ATTACH EXHIBIT “A”, IF NECESSARY, TO EXPLAIN ANY DEVIATIONS  
FROM THE PHASE 1 CONSTRUCTION BUDGET AND SCHEDULE]

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EXHIBIT B-2  
TO CREDIT AGREEMENT

LIEN WAIVERS

- 10 -

EXHIBIT B-2  
TO CREDIT AGREEMENT

[LIST EACH PUNCHLIST ITEM AND COST ASSOCIATED THERETO]

[EVIDENCE OF PAYMENT RETAINAGE AMOUNTS]

[LIST EACH DISPUTED PAYMENT AMOUNT UNDER PHASE 1 EPC CONTRACT]

[CALCULATION OF EXISTING SHORTFALL OF REQUIRED DEBT SERVICE RESERVE AMOUNT]

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EXHIBIT B-2  
TO CREDIT AGREEMENT

[Form of Independent Engineer's Certificate (initial borrowing of Phase 2 Loan only)]

INDEPENDENT ENGINEER'S CERTIFICATE

Reference is made to: (i) the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the Lenders (in such capacity, together with its successors in such capacity, the "Collateral Agent") and (ii) the letters dated July 1, 2004 and July 6, 2006 from Stone & Webster Management Consultants, Inc. to the lead arrangers on behalf of the Lenders (collectively, the "Relevant Agreements"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

The undersigned, \_\_\_\_\_, an Authorized Officer of the Independent Engineer, hereby certifies that:

1. The Independent Engineer has reviewed the material and data provided by (a) the Borrower and (b) each of the Phase 2 Construction Contractors in connection with Notice of Borrowing No. \_\_\_\_\_, dated \_\_\_\_\_ and Borrowing Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ (the "Borrowing Certificate").
2. The Independent Engineer has reviewed technical aspects of the Project, including engineering design, cost and scheduling estimates and the technical provisions in the Project Documents related to Development and permits in accordance with the scope of work under the Agreements.
3. The Independent Engineer has performed its review and observations in accordance with generally accepted engineering practices and included such investigation, observation and review as the Independent Engineer in its professional capacity deemed necessary or appropriate in the circumstances and within the scope of its appointment as described in paragraph 1 above. The Independent Engineer has also reviewed the Borrowing Certificate, including any appendices, schedules and requisitions and/or invoices attached thereto or delivered therewith.
4. As of the date hereof, the amount of Phase 2 Project Costs set out in paragraph 9 of the Borrowing Certificate as having been paid by or on behalf of the Borrower through the date of such Borrowing Certificate has been used to pay Phase 2 Project Costs.

Based on the review of the aforementioned information and data provided to the Independent Engineer by others and the understanding and assumption that the Independent

Engineer has been provided true, correct and complete information, the Independent Engineer is of the opinion that, as of the date hereof:

- (1) the statements set forth in paragraph 2 and the second sentence of paragraph 9 of part 2 of the Borrowing Certificate are true and correct;
- (2) no act, event or condition has occurred since the date of the report provided pursuant to Section 6.01(d)(iii) of the Credit Agreement that would have a material effect on the findings and conclusions set forth therein or which could reasonably be expected to have a Material Adverse Effect;
- (3) the ongoing construction of Phase 2 in no material way adversely affects the construction of Phase 1 or the ability of Phase 1 to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date;
- (4) the total amount of the Phase 2 Loan requested pursuant to the Notice of Borrowing referred to above shall not, when taken together with each other Phase 2 Loan, exceed the Phase 2 Allocation; and
- (5) the Independent Engineer is not aware of any fact or circumstance which would render any statement made by the Borrower in the attached Borrowing Certificate untrue or misleading.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as a duly authorized representative of the Independent Engineer this \_\_\_\_ day of \_\_\_\_\_, 2006.<sup>1</sup>

STONE & WEBSTER MANAGEMENT CONSULTANTS, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

<sup>1</sup> To be dated on or before the request date of the Phase 2 Loan.

[Form of Independent Engineer's Certificate (Each Borrowing)]

INDEPENDENT ENGINEER'S CERTIFICATE

Reference is made to: (i) the Amended and Restated Credit Agreement dated as July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the Lenders (in such capacity, together with its successors in such capacity, the "Collateral Agent") and (ii) the letters dated July 1, 2004 and July 6, 2006 from Stone & Webster Management Consultants, Inc. to the lead arrangers on behalf of the Lenders (collectively, the "Relevant Agreements"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

The undersigned, \_\_\_\_\_, an Authorized Officer of the Independent Engineer, hereby certifies that:

1. The Independent Engineer has reviewed the material and data provided by (a) the Borrower and (b) the Phase 1 EPC Contractor and each of the Phase 2 Construction Contractors since the date of the last Borrowing Certificate consisting of: Notice of Borrowing No. \_\_\_\_\_, dated \_\_\_\_\_ and Borrowing Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ (the "Borrowing Certificates") and work progress documents consisting of the Phase 1 EPC Contractor's and Phase 2 Construction Contractor's monthly progress reports, the Borrower's Construction Report, and CPM schedule updates, as applicable.
2. The Independent Engineer has reviewed technical aspects of the Project, including engineering design, cost and scheduling estimates and the technical provisions in the Project Documents related to Development and permits in accordance with the scope of work under the Relevant Agreements.
3. The Independent Engineer has performed its review and observations in accordance with generally accepted engineering practices and included such investigation, observation and review as the Independent Engineer in its professional capacity deemed necessary or appropriate in the circumstances and within the scope of its appointment as described in the preceding paragraph. The Independent Engineer has also reviewed the Borrowing Certificate, including any appendices, schedules and requisitions and/or invoices attached thereto or delivered therewith.



Based on the review of the aforementioned information and data provided to the Independent Engineer by others and the understanding and assumption that the Independent Engineer has been provided true, correct and complete information, the Independent Engineer is of the opinion that, as of the date hereof:

[(a) with respect to Phase 1, (i) the statements set forth in Paragraphs 2, 4(a), 4(b) and 7 of Part 1 of the Borrowing Certificate are true and correct, (ii) the progress of the Development is in accordance with the Phase 1 Construction Budget and Schedule, (iii) the current utilization of the Phase 1 Loan proceeds from previous borrowings is in accordance with the uses contemplated in the Borrowing Certificate pursuant to which such Phase 1 Loans were borrowed, (iv) sufficient funds exist in order to achieve Phase 1 Final Completion and (v) the Independent Engineer is not aware of any fact or circumstance which would render any statement made by the Borrower in the attached Borrowing Certificate untrue or misleading;]<sup>1</sup> and

[(b) with respect to Phase 2, (i) the statements set forth in Paragraphs 2, 4(a) and 4(b) of Part 2 of the Borrowing Certificate are true and correct, (ii) the current utilization of the Phase 2 Loan proceeds from previous borrowings is in accordance with the uses contemplated in the Borrowing Certificate pursuant to which such Phase 2 Loans were borrowed, (iii) the ongoing construction of Phase 2 in no material way adversely affects the construction of Phase 1 or the ability of Phase 1 to achieve Phase 1 Substantial Completion by the Guaranteed Substantial Completion Date and (iv) the Independent Engineer is not aware of any fact or circumstance which would render any statement made by the Borrower in the attached Borrowing Certificate untrue or misleading.]<sup>2</sup>

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as a duly authorized representative of the Independent Engineer this \_\_\_\_\_ day of \_\_\_\_\_.

STONE & WEBSTER MANAGEMENT CONSULTANTS, INC.

By: \_\_\_\_\_  
Name:  
Title:

<sup>1</sup> To be included where a Phase 1 Loan is requested.

<sup>2</sup> To be included where a Phase 2 Loan is requested.

[Form of Independent Engineer's Certificate (Final Funding only)]

INDEPENDENT ENGINEER'S CERTIFICATE

Reference is made to: (i) the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the Lenders (in such capacity, together with its successors in such capacity, the "Collateral Agent") and (ii) the letters dated July 1, 2004 and July 6, 2006 from Stone & Webster Management Consultants, Inc. to the lead arrangers on behalf of the Lenders (collectively, the "Relevant Agreements"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

The undersigned, \_\_\_\_\_, an Authorized Officer of the Independent Engineer, hereby certifies that:

1. The Independent Engineer has reviewed the material and data provided by (a) the Borrower and (b) the Phase 1 EPC Contractor and each of the Phase 2 Construction Contractors since the date of the last Borrowing Certificate consisting of: Notice of Borrowing No. \_\_\_\_\_, dated \_\_\_\_\_ and Borrowing Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ (the "Borrowing Certificate") and work progress documents consisting of the Phase 1 EPC Contractor's monthly progress reports, the Borrower's Construction Report, and CPM schedule updates.
2. The Independent Engineer has reviewed documentation relating to payment retainage and payment disputes relating to the Phase 1 EPC Contract and hereby confirms [the accuracy of the retainage amounts and disputed amounts evidenced by] such documentation.
3. The Independent Engineer has reviewed technical aspects of the Project, including engineering design, cost and scheduling estimates and the technical provisions in the Project Documents related to Development and permits in accordance with the scope of work under the Relevant Agreements.
4. The Independent Engineer has performed its review and observations in accordance with generally accepted engineering practices and included such investigation, observation and review as the Independent Engineer in its professional capacity deemed necessary or appropriate in the circumstances and within the scope of its appointment as described in the preceding paragraph. The Independent Engineer has also reviewed the Borrowing Certificate, including any appendices, schedules and requisitions and/or invoices attached thereto or delivered therewith.

Based on the review of the aforementioned information and data provided to the Independent Engineer by others and the understanding and assumption that the Independent Engineer has been provided true, correct and complete information, the Independent Engineer is of the opinion that, as of the date hereof: (1) the statements set forth in Paragraphs 2, 4(a), 4(b), 5(a), 5(b) and 9 of the Borrowing Certificate are true and correct, (2) the current utilization of the Phase 1 Loan proceeds and Phase 2 Loan proceeds from previous borrowings is in accordance with the uses contemplated in the Borrowing Certificate pursuant to which such Phase 1 Loans and Phase 2 Loans were borrowed, (3) Phase 1 has achieved Phase 1 Substantial Completion, (4) the amounts of the proposed final Phase 1 Loan to be deposited to the Phase 1 Construction Payment Subaccount and the Phase 1 Punchlist Retention Subaccount are sufficient to achieve Phase 1 Final Completion and (5) the Independent Engineer is not aware of any fact or circumstance which would render any statement made by the Borrower in the attached Borrowing Certificate untrue or misleading.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as a duly authorized representative of the Independent Engineer this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STONE & WEBSTER MANAGEMENT CONSULTANTS, INC.

By: \_\_\_\_\_  
Name:  
Title:

[Form of Independent Engineer's Certificate (Completion)]

INDEPENDENT ENGINEER'S CERTIFICATE

Reference is made to: (i) the Amended and Restated Credit Agreement dated as of July 21, 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the Lenders (in such capacity, together with its successors in such capacity, the "Collateral Agent") and (ii) the letters dated July 1, 2004 and July 6, 2006 from Stone & Webster Management Consultants, Inc. to the lead arrangers on behalf of the Lenders (collectively, the "Relevant Agreements"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

The undersigned, \_\_\_\_\_, an Authorized Officer of the Independent Engineer, hereby certifies that:

1. The Independent Engineer has reviewed technical aspects of the Project, including engineering design, cost and scheduling estimates and the technical provisions in the Project Documents related to Development and permits in accordance with the scope of work under the Agreements.
2. The Independent Engineer has performed its review and observations in accordance with generally accepted engineering practices and included such investigation, observation and review as the Independent Engineer in its professional capacity deemed necessary or appropriate in the circumstances and within the scope of its appointment as described in paragraph 1 above. The Independent Engineer has also reviewed the Borrowing Certificate, including any appendices, schedules and requisitions and/or invoices attached thereto or delivered therewith.

Based on the review of the aforementioned information and data provided to the Independent Engineer by others and the understanding and assumption that the Independent Engineer has been provided true, correct and complete information, the Independent Engineer is of the opinion that, as of the date hereof:

- (1) Phase 1 has achieved Phase 1 Final Completion and the Final Completion Certificate (as defined in the Phase 1 EPC Contract) has been accepted by the Borrower and the Independent Engineer;
- (2) Phase 2 has achieved Phase 2 Completion and the Final Acceptance Form (as defined in the Bechtel Construction Contract) has been accepted by the Borrower and the Independent Engineer; and

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(3) Phase 2 has successfully passed the lender's performance test in accordance with the test procedures and test criteria set forth in Appendix I to this Exhibit C-4, and the Independent Engineer has reviewed the test report prepared by the Borrower and accepted the certificate of the Borrower certifying the successful completion of such test, a copy of which has been provided to the Agent.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as a duly authorized representative of the Independent Engineer this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STONE & WEBSTER MANAGEMENT CONSULTANTS, INC.

By: \_\_\_\_\_

Name:

Title:

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EXHIBIT C-4  
TO CREDIT AGREEMENT

LENDER'S PERFORMANCE TEST – TEST PROCEDURES AND TEST CRITERIA

**1.0 Lenders' Performance Test Overview**

The Borrower shall give the Agent and the Independent Engineer not less than ninety (90) days' prior written notice of its intention to commence the test described herein (the "Lenders Performance Test"), and, on the sixtieth (60<sup>th</sup>) day and thirtieth (30<sup>th</sup>) day immediately prior to the Borrower's intention to commence such testing activities, the Borrower shall provide written notices to the Agent and the Independent Engineer. Representatives of the Agent and/or the Independent Engineer shall be permitted to witness all or any part of the Lenders' Performance Test.

The Borrower and the Independent Engineer shall, no later than twenty-four (24) months after the Borrower's issuance of the Notice to Proceed under the Bechtel Construction Contract mutually agree upon final test procedures for the conduct of the Lenders' Performance Tests as specified in and generally consistent with the test procedures and the test parameters specified in Attachment S to the Phase 1 EPC Contract with deviations from Attachment S mutually agreed upon between the Borrower and the Independent Engineer.

The Borrower shall provide all labor, equipment, supplies, and all other items necessary for the conduct of the Lenders' Performance Tests, and the LNG necessary for the Phase 2 EPCM Contractor to achieve "Cool Down" and to commence or continue commissioning, start-up and conduct the Lenders' Performance Test in accordance with accepted industry practice and in accordance with the criteria specified herein. The Borrower shall analyze the data obtained during the Lenders' Performance Tests, and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to the Independent Engineer at the completion of testing.

Upon achieving all requirements under this Agreement, the Borrower shall certify to the Agent and the Independent Engineer that all of the requirements under this Agreement for completion of the Lenders' Performance Tests have occurred and shall provide with such completion certificate a Lenders' Performance Test report and analysis to the Agent and the Independent Engineer. At a minimum, the Lenders' Performance Test report shall include (i) the raw data, (ii) the instrumentation utilized for the Lenders' Performance Tests, (iii) the procedures utilized during the Lenders' Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the test criteria conditions, as and to the extent specified in the Lenders' Performance Test Procedures, and (v) any other reasonable supporting information used to demonstrate that the Phase 2 Stage 1 Expansion facilities have met the Lenders'

Performance Test criteria, as set forth herein. The Lenders' Performance Test completion certificate shall be accompanied by all other supporting documentation as may be reasonably required to establish that the requirements for the Lenders' Performance Tests have been met.

The Independent Engineer shall notify the Borrower whether it accepts or rejects the Lenders' Performance Test completion certificate within ten (10) days following Independent Engineer's receipt thereof. Acceptance of such completion certificate (which such acceptance shall not be unreasonably withheld) shall be evidenced by the Independent Engineer's signature on such completion certificate. If the Independent Engineer does not agree that successful completion of the Lenders' Performance Test has occurred, then the Independent Engineer shall state the basis for its rejection in reasonable detail in such notice. The Borrower shall be permitted to repeat any or all of the Lenders' Performance Tests as many times as may be necessary to satisfy the test requirements.

Notwithstanding anything to the contrary in this Appendix, the Independent Engineer shall not be required to accept such completion certificate if the requirements under this Agreement for the achievement of Lenders' Performance Test have not been achieved, such acceptance shall not be unreasonably withheld. As used herein, "unreasonably withheld" means that the Independent Engineer fails to accept such completion certificate even if all of the requirements under this Agreement for the achievement of the Lenders' Performance Test have been achieved and the Independent Engineer shall not fail to accept such completion certificate if all the requirements under this Agreement for the achievement of the Lenders' Performance Test have been achieved.

## **2.0 Lenders' Performance Test Criteria**

- 2.1** Prior to conducting the Lenders' Performance Test, (1) each Phase 2 LNG Tank shall have been filled to its normal maximum operating level with LNG on at least one occasion each, and (2) the Borrower shall have successfully unloaded at least two LNG carriers separately into both Phase 2 LNG tanks, i.e., two LNG cargoes into LNG Tank S-104 and two LNG cargoes into LNG Tank S-105.
- 2.2** The Phase 2 Stage 1 facility shall vaporize LNG from each of the eight new Phase 2 Stage 1 tandem vaporization trains, with each train consisting of a tandem high-pressure send-out pump coupled to a dedicated submerged combustion vaporizer, for twenty-four (24) continuous hours minimum at an average rate of 180 MMscfd or above, at a temperature no less than 40°F, and at a pressure no less than 1,440 psig at the vaporizer outlet. Each tandem vaporization train may be tested individually or in conjunction with one or more additional parallel Phase 2 Stage 1 tandem vaporization trains.
- 2.3** Because of the possibility of utilizing Lenders' Performance Test send-out gas to supplement the send-out gas required to meet the requirements of the Total TUA and Chevron TUA, the Borrower shall make every effort to commission, start-up, debug, and fully test each individual Phase 2 vaporization train individually prior to utilizing the Phase 2 vaporization trains to supplement the send-out gas

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required to satisfy the requirements of the Total TUA and Chevron TUA, in order to minimize any potential interference or disruption to normal send-out operations under the Total TUA and Chevron TUA.

- 2.4** Prior to or during the Lenders' Performance Tests, the Borrower shall have demonstrated the operability of the Phase 2 LNG tank in-tank pumps at the normal pump-out rate with two of the three in-tank pumps operating at the normal pump-out rate for a continuous period of not less than twelve (12) hours for each Phase 2 LNG tank.



[Form of Pending Disbursements Clause]

PENDING DISBURSEMENTS CLAUSE

Pending disbursement of the full proceeds of the loans secured by the insured mortgage described herein, this policy insures only to the extent of the amount actually disbursed plus interest accrued thereon but increases up to the face amount of the policy as disbursements are made.

Title shall be continued down to the date of each disbursement and the Company shall furnish to the insured a continuation report and date down endorsement which shall note (a) the new effective date of the policy and the endorsements and the amount of the policy, (b) all assessments, taxes, liens, encumbrances, leases, mortgages, easements and other items including survey variations, encroachments and setback violations then affecting the insured premises which have been filed of record or discovered by the Title Company since the original date of the policy regardless of whether they affect the lien of the insured mortgages, (c) which of the aforesaid items have been filed or recorded since the date of the last preceding continuation report and (d) which of said items are intended to be added as exceptions to the coverage of the policy as to (i) all amounts secured by the insured mortgages and (ii) only amounts secured by the insured mortgages advanced on or after the new effective date of the policy.

In addition, each continuation search will notify Lenders of any liens which have been discharged by bonding, court deposit or any other means other than full payment.

In the event that the lien of the insured mortgages described herein is insured by more than one insurer, the Title Company agrees that it shall be bound by the continuation reports of a single company specified as "lead" insurer herein.

FORM OF PLEDGE AGREEMENT

This PLEDGE AGREEMENT, dated as of February 25, 2005 (this "Agreement"), is made among SABINE PASS LNG – LP, LLC, a Delaware limited liability company ("Sabine LP") and SABINE PASS LNG – GP, INC., a Delaware corporation ("Sabine GP") and each of Sabine LP and Sabine GP, a "Pledgor" and, collectively, the "Pledgors", SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), SOCIÉTÉ GÉNÉRALE, as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, acting hereunder as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") on behalf of and for the benefit of the Secured Parties.

RECITALS

A. Pursuant to the Credit Agreement, dated as of February 25, 2005 (the "Credit Agreement"), among the Borrower, each of the lenders that is or may from time to time become a party thereto (collectively, the "Lenders"), Société Générale in its capacities as a Lender and as Agent and the Collateral Agent, the Lenders have agreed to make certain Loans to the Borrower, on the terms and subject to the conditions of the Credit Agreement.

B. It is a requirement under the Credit Agreement and a condition precedent to the making of the Loans that the Pledgors shall have executed and delivered this Agreement.

C. To induce the Lenders to enter into, and to extend credit under, the Credit Agreement, the Pledgors have agreed to pledge and grant a security interest in the Collateral (including the Pledge Agreement Collateral) to the Collateral Agent as collateral security for the Secured Obligations.

NOW, THEREFORE, in consideration of the premises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Capitalized terms that are defined herein shall have the meanings herein specified and such definitions shall be equally applicable to the singular and plural forms of the terms defined. Capitalized terms not otherwise defined herein shall have the meanings set forth in, and the interpretations applicable thereto under, the Credit Agreement. All terms used herein which are not defined herein or in the Credit Agreement and are defined in the Uniform Commercial Code shall have the meanings therein stated. Unless otherwise stated, any agreement, contract or document defined or referred to herein shall mean such agreement, contract or document and all schedules, exhibits and attachments thereto as in effect as of the date hereof, as the same may thereafter be amended, supplemented or modified and in effect from time to time in accordance

with the terms of this Agreement and the other Transaction Documents and shall include any agreement, contract or document in substitution or replacement of any of the foregoing in accordance with the terms of this Agreement and the other Transaction Documents. Any reference to any Person shall include its permitted successors and assigns in accordance with the terms of this Agreement and the other Transaction Documents, and in the case of any Government Authority, any Persons succeeding to its functions and capacities. Unless the context clearly intends to the contrary, pronouns having a masculine or feminine gender shall be deemed to include the other. All references in this Agreement to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Agreement. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

"Permitted Pledgor Liens" shall mean (a) Liens imposed by any Government Rule which are not yet due or which are being Contested, (b) Liens created pursuant to this Agreement or (c) Liens in the nature of restrictions on transfer and other restrictions, encumbrances or preferential rights under the Partnership Agreement.

"Pledge Agreement Collateral" shall have the meaning assigned to such term in Article III hereof.

"Records" shall have the meaning assigned to such term in Article II(a) hereof.

"Uniform Commercial Code" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non-perfection of any security interests hereunder in any Pledge Agreement Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Each Pledgor represents and warrants with respect to itself to the Collateral Agent for the benefit of the Secured Parties that:

(a) The principal place of business and chief executive office of such Pledgor and the office where such Pledgor keeps its records concerning the Pledge Agreement Collateral (hereinafter, collectively, the "Records") is located at such Pledgor's address for notices set forth on the signature pages hereto.

(b) Sabine GP is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and is duly qualified to do business and is in good standing in all places where necessary in light of the business it conducts and the property it owns and in light of the transactions contemplated by this Agreement, the Partnership Agreement and each other Transaction Document to which it

is a party. Sabine LP is a limited liability company duly formed, validly existing and in good standing under the laws of the jurisdiction of its formation and is duly qualified to do business and is in good standing in all places where necessary in light of the business it conducts and the property it owns and in light of the transactions contemplated by this Agreement, the Partnership Agreement and each other Transaction Document to which it is a party.

(c) Such Pledgor has the full corporate or limited liability company power, as the case may be, authority and legal right to execute, deliver and perform its obligations under this Agreement, the Partnership Agreement and each other Transaction Document to which it is a party. The execution, delivery and performance by such Pledgor of this Agreement, the Partnership Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate and limited liability company action, as the case may be, of such Pledgor. Each of this Agreement, the Partnership Agreement and each other Transaction Document to which it is a party has been duly executed and delivered by such Pledgor, is in full force and effect and is the legal, valid and binding obligation of such Pledgor, enforceable against such Pledgor in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) the application of general principles of equity (regardless of whether enforcement thereof is sought in a proceeding at law or in equity). Such Pledgor is not in default in the performance of any covenant or obligation set forth in this Agreement, the Partnership Agreement, any other Transaction Document to which it is a party or any other indenture or loan or credit agreement or other agreement, lease or instrument to which it is a party or by which any of its property may be bound or affected except any such default that could not reasonably be expected to result in a Material Adverse Effect.

(d) The execution, delivery and performance by such Pledgor of this Agreement, the Partnership Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby do not:

(i) require any consent or approval of the board of directors, any shareholder, member or manager, as the case may be, of such Pledgor or any other Person that has not been duly obtained and each such consent or approval that has been obtained is in full force and effect,

(ii) violate any provision of the charter documents of such Pledgor or any applicable Government Rule or Government Approval applicable to such Pledgor,

(iii) conflict with, result in a breach of or constitute a default under any provision of any resolution of the board of directors or managers, as the case may be, of such Pledgor or any indenture or loan or credit agreement or other material agreement, lease or instrument to which such Pledgor is a party or by which it or

any of its property may be bound or affected except any such conflict, breach or default that could not reasonably be expected to result in a Material Adverse Effect, or

(iv) result in, or require the creation or imposition of, any Lien, upon or with respect to the Pledge Agreement Collateral, except for Permitted Pledgor Liens.

Such Pledgor is not in violation of any applicable Government Rule except any such violation that could not reasonably be expected to result in a Material Adverse Effect.

(e) This Agreement creates in favor of the Collateral Agent, for the benefit of the Secured Parties, a valid lien on and security interest in all of such Pledgor's right, title and interest in, to and under the Pledge Agreement Collateral, subject to no other Lien except Permitted Pledgor Liens, securing the payment and performance of the Secured Obligations, and all filings and other actions necessary to create, preserve, validate, perfect and protect such Lien and the priority thereof have been duly made or taken (other than any such filings or other actions permitted to be made or taken after the Closing Date in accordance with this Agreement and the other Financing Documents).

(f) No Government Approval by, and no filing with, any Government Authority is required to be obtained by such Pledgor in connection with this Agreement, the Partnership Agreement or any other Transaction Document to which it is a party and the transactions contemplated hereby and thereby (except for such Government Approvals and such filings heretofore obtained or made and in full force and effect and for the filing of the financing statements in the relevant jurisdictions).

(g) Such Pledgor is the sole legal and beneficial owner of the Pledge Agreement Collateral in which it purports to grant a security interest pursuant to Article III hereof, and no Lien exists upon the Pledge Agreement Collateral (and, with respect to its partnership interest in the Borrower, no right or option, except as provided in the Partnership Agreement, to acquire the same exists in favor of any other Person), except for the pledge and security interest in favor of the Collateral Agent for the benefit of the Secured Parties created or provided for herein and except for Permitted Pledgor Liens.

(h) There is no action, suit or proceeding at law or in equity by or before any Government Authority, arbitral tribunal or other body now pending, or to the knowledge of such Pledgor, threatened, against or affecting such Pledgor or any of its property or the Pledge Agreement Collateral which could reasonably be expected to result in a Material Adverse Effect.

(i) Such Pledgor has filed, or caused to be filed, all tax and information returns that are required to have been filed by it in any jurisdiction, and has paid (prior to their delinquency dates) all Taxes shown to be due and payable on such returns and all other Taxes payable by it, to the extent the same have become due and payable, except to the extent there is Contest thereof by such Pledgor or to the extent that the failure to file

such returns or to pay such Taxes could reasonably be expected to result in a Material Adverse Effect, and no tax Liens have been filed and no claims are being asserted with respect to any such Taxes except any such tax Liens and claims that could not be reasonably be expected to result in a Material Adverse Effect.

(j) Such Pledgor is not (i) an "investment company" or an entity "controlled" by an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended, or an "investment advisor" within the meaning of the Investment Company Act of 1940, as amended or (ii) subject to regulation as a "public-utility company," a "holding company" or a "subsidiary company" or "affiliate" of any of the foregoing, under the Public Utility Holding Company Act of 1935, as amended.

(k) Such Pledgor is a partner in the Borrower and its partnership interest together with the interest of the other Pledgor constitutes 100% of the authorized, issued and outstanding partnership interests in the Borrower as of the date hereof.

### ARTICLE III

#### PLEDGE AGREEMENT COLLATERAL

As collateral security for the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations now existing or hereafter arising, each Pledgor hereby pledges, assigns, hypothecates and transfers to the Collateral Agent for the benefit of the Secured Parties, and hereby grants to the Collateral Agent for the benefit of the Secured Parties, a lien on and security interest in all of such Pledgor's right, title and interest in, to and under the following, whether now owned by such Pledgor or hereafter acquired and whether now existing or hereafter coming into existence and wherever located (all being, collectively, referred to herein as the "Pledge Agreement Collateral"):

(a) its partnership interest in the Borrower, including, without limitation, all of its right, title and interest in, to and under the Partnership Agreement, including, without limitation, (i) all rights of such Pledgor to receive moneys due but unpaid and to become due under or pursuant to the Partnership Agreement, (ii) all rights of such Pledgor to participate in the operation or management of the Borrower and to take actions or consent to actions in accordance with the provisions of the Partnership Agreement, (iii) all rights of such Pledgor to property of the Borrower, (iv) all rights of such Pledgor to receive proceeds of any insurance, bond, indemnity, warranty or guaranty with respect to the Partnership Agreement, (v) all claims of such Pledgor for damages arising out of or for breach of or default under the Partnership Agreement and (vi) all rights of such Pledgor to terminate, amend, supplement, modify or waive performance under the Partnership Agreement, to perform thereunder and to compel performance and otherwise to exercise all remedies thereunder;

(b) all certificates representing its partnership interest or a distribution or return of capital upon or with respect to its partnership interest or resulting from a split-up, revision, reclassification or other like change of the Pledge Agreement Collateral or

otherwise received in exchange therefor, and any subscription warrants, rights or options issued to the holders of, or otherwise in respect of the Pledge Agreement Collateral; and

(c) to the extent not included in the foregoing, all proceeds, products, offspring, rents, revenues, issues, profits, royalties, income, benefits, accessions, additions, substitutions and replacements of and to any and all of the foregoing.

#### ARTICLE IV

#### COVENANTS

Each Pledgor covenants and agrees that, until the Secured Obligations have been indefeasibly paid in full:

(a) Such Pledgor shall not (i) cancel or terminate the Partnership Agreement or consent to or accept any cancellation or termination thereof or (ii) amend, supplement or modify (or petition, request or take any other legal or administrative action that seeks to amend, supplement or modify) the Partnership Agreement except as permitted pursuant to Section 8.11(a) of the Credit Agreement or (iii) take or otherwise consent to any action that would result in an Event of Default.

(b) Such Pledgor shall preserve and maintain its corporate or limited liabilities company existence, as the case may be, and all of its rights, privileges and franchises that are necessary for the maintenance of its existence and the due performance of its obligations under this Agreement and the Partnership Agreement.

(c) Such Pledgor shall pay and discharge all Taxes now or hereafter imposed on such Pledgor, on its income or profits, on any of its property or upon the Liens provided for herein, prior to the date on which penalties attach thereto, except to the extent that the failure to pay such Taxes could not reasonably be expected to result in a Material Adverse Effect; provided that such Pledgor shall have the right to Contest the validity or amount of any such Tax.

(d) Such Pledgor shall not (i) create, incur, assume or suffer to exist any Lien upon any of the Pledge Agreement Collateral other than Permitted Pledgor Liens, (ii) directly or indirectly create or incur any debt except Indebtedness for borrowed money under the Partnership Agreement or Indebtedness for borrowed money owed to Affiliates of such Pledgor, (iii) directly or indirectly create, incur, assume or otherwise become liable with respect to any Guaranty except any Guaranty directly arising under the Partnership Agreement, (iv) make any investments other than Permitted Investments and investments in the Borrower, (v) engage in any business other than in connection with its partnership interest in the Borrower and, with respect to Sabine GP, in connection with its obligations pursuant to the Management Services Agreement, (vi) merge into or consolidate with any Person or (vii) purchase or acquire any assets, or convey, sell, lease transfer or otherwise dispose of, in one transaction or a series of transactions, any assets except investments permitted under clause (iv) above.

(e) Such Pledgor shall promptly but in no case later than five Business Days upon obtaining knowledge of any action, suit or proceeding at law or in equity by or before any Government Authority, arbitral tribunal or other body pending or threatened against such Pledgor which could reasonably be expected to result in a Material Adverse Effect with respect to it, furnish to the Collateral Agent a notice of such event describing the same in reasonable detail and, together with such notice or as soon thereafter as possible, a description of the action that such Pledgor has taken or proposes to take with respect thereto.

(f) Such Pledgor shall not sell, assign, transfer or otherwise dispose of all or any part of its partnership interest in the Borrower, or consent to the creation of any limited or partnership interest in the Borrower in a manner so as to cause the occurrence of an Event of Default under Section 9.01(q) of the Credit Agreement.

(g) Such Pledgor shall not voluntarily withdraw as a partner in the Borrower in a manner so as to cause the occurrence of an Event of Default under Section 9.01(q) of the Credit Agreement.

(h) Such Pledgor shall not petition, request or take, or consent to, any action to terminate, dissolve or liquidate the Borrower or commence or consent to the commencement of any proceeding seeking the termination, dissolution or liquidation of the Borrower.

## ARTICLE V

### FURTHER ASSURANCES; REMEDIES

In furtherance of the grant of the lien and security interest pursuant to Article III hereof, each Pledgor hereby agrees with the Collateral Agent as follows:

5.01 Delivery and Other Perfection. Such Pledgor shall:

(a) if any of the certificates, warrants, rights, options or other property required to be pledged by such Pledgor under Article III hereof are received by such Pledgor, forthwith:

(i) transfer and deliver to the Collateral Agent such certificates, warrants, rights, options or other property so received by such Pledgor all of which thereafter shall be held by the Collateral Agent, pursuant to the terms of this Agreement, as part of the Pledge Agreement Collateral; and/or

(ii) take such other action as the Collateral Agent shall reasonably deem necessary or appropriate to duly record the Lien created hereunder in such certificates, warrants, rights, options or other property;



(b) give, execute, deliver, file and/or record any financing statement, continuation statement, notice, instrument, document, agreement or other papers that may be required:

(i) to create, preserve, perfect or validate the security interest granted pursuant hereto so that the Collateral Agent's security interest in Pledge Agreement Collateral shall at all times be valid, perfected and enforceable against such Pledgor and all third parties, as security for the Secured Obligations, and that the applicable Pledge Agreement Collateral shall not at any time be subject to any Lien, other than a Permitted Pledgor Lien, that is prior to, on parity with or junior to such security interest, or

(ii) to enable the Collateral Agent to exercise and enforce its rights hereunder with respect to such pledge and security interest, including, without limitation, causing any or all of the Pledge Agreement Collateral to be transferred of record into the name of the Collateral Agent or its nominee (and the Collateral Agent agrees that if any Pledge Agreement Collateral is transferred into its name or the name of its nominee, the Collateral Agent shall thereafter promptly give to such Pledgor copies of any notices and communications received by it with respect to the Pledge Agreement Collateral).

Without limiting the generality of the foregoing, such Pledgor shall, if any Pledge Agreement Collateral shall be evidenced by a promissory note or other instrument, deliver and pledge to the Collateral Agent such note or instrument duly endorsed or accompanied by duly executed instruments of transfer or assignment, all in such form and substance as will allow the Collateral Agent to realize upon the Pledge Agreement Collateral pursuant to Section 5.05 hereof;

(c) maintain, hold and preserve full and accurate records, and stamp or otherwise mark such records in such manner as may reasonably be required in order to reflect the security interests granted by this Agreement; and

(d) permit representatives of the Collateral Agent, upon reasonable notice, at any time during normal business hours to conduct reasonable inspections and examinations of, and make reasonable abstracts from, its Records and, upon reasonable request of the Collateral Agent, forward to the Collateral Agent copies of all communications relating to the Pledge Agreement Collateral and copies of any material notices or communications received by such Pledgor with respect to the Pledge Agreement Collateral, all in such manner as the Collateral Agent may reasonably require.

5.02 Other Financing Statements and Liens. Without the prior consent of the Collateral Agent (granted with the written authorization of the Secured Parties in accordance with the Credit Agreement), no Pledgor shall file or suffer to be on file, or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to the Pledge Agreement Collateral in which the Collateral Agent is not named as the sole secured party for the benefit of the Secured Parties.

5.03 Preservation of Rights. The Collateral Agent shall not be required to take steps necessary to preserve any rights against prior parties to any of the Pledge Agreement Collateral.

#### 5.04 Pledge Agreement Collateral.

(a) So long as no Event of Default shall have occurred and be continuing, each Pledgor shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledge Agreement Collateral for all purposes not inconsistent with the terms of this Agreement, any Project Document or any other Transaction Document; and the Collateral Agent shall execute and deliver to each Pledgor or cause to be executed and delivered to each Pledgor all such proxies, powers of attorney, dividend and other orders, and all such instruments, without recourse, as such Pledgor may reasonably request for the purpose of enabling such Pledgor to exercise the rights and powers which it is entitled to exercise pursuant to this Section 5.04(a).

(b) Each Pledgor shall be entitled to receive and retain any and all Restricted Payments to which it is entitled under the Partnership Agreement and, in the case of Sabine Pass LNG – GP, Inc., all amounts payable to it in accordance with the Management Services Agreement, and distribute as dividends or otherwise any and all such Restricted Payments, to the extent that such Restricted Payments are made by the Borrower in accordance with the Credit Agreement and the other Financing Documents.

(c) If any Event of Default shall have occurred and be continuing, and whether or not the Collateral Agent or any other Secured Party exercises any available right to declare any Secured Obligation due and payable or seeks or pursues any other relief or remedy available to it under applicable Government Rule or under this Agreement or any other Financing Document, all Restricted Payments to which any Pledgor is entitled under the Partnership Agreement, the Credit Agreement and the other Financing Documents while such Event of Default continues, shall be paid directly to the Collateral Agent and retained by it as part of the Pledge Agreement Collateral, subject to the terms of this Agreement, and, if the Collateral Agent shall so request, each Pledgor agrees to execute and deliver to the Collateral Agent appropriate additional dividend, distribution and other orders and documents to that end, provided that if such Event of Default is waived or cured, any such Restricted Payment theretofore paid to the Collateral Agent shall, upon request of such Pledgor (except to the extent theretofore applied to the Secured Obligations), be returned by the Collateral Agent to such Pledgor.

5.05 Event of Default. If any Event of Default shall occur and be continuing then,

(a) the Collateral Agent shall have the rights and the obligations with respect to this Agreement as more particularly provided in the Credit Agreement;

(b) the Collateral Agent, may, without notice to each Pledgor and at such time or times as the Collateral Agent in its sole discretion may determine, exercise any or all of such Pledgor's rights in, to and under, or in any way connected with or related to any of the Pledge Agreement Collateral and the Collateral Agent shall otherwise have all of the rights and remedies with respect to the Pledge Agreement Collateral of a secured party under the Uniform Commercial Code (whether or not said Code is in effect in the jurisdiction where the rights and remedies are asserted) and such additional rights and

remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted, including, without limitation, the right, to the maximum extent permitted by applicable Government Rule, to exercise all voting, consensual and other powers of ownership pertaining to the Pledge Agreement Collateral as if the Collateral Agent were the sole and absolute owner thereof (and each Pledgor agrees to take all such action as may be appropriate to give effect to such right);

(c) the Collateral Agent may make any reasonable compromise or settlement deemed desirable with respect to any of the Pledge Agreement Collateral and may extend the time of payment, arrange for payment in installments, or otherwise modify the terms, of any of the Pledge Agreement Collateral;

(d) the Collateral Agent may, in its name or in the name of each Pledgor or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for any of the Pledge Agreement Collateral, but shall be under no obligation to do so; and

(e) the Collateral Agent shall upon the request of the Majority Lenders upon 10 Business Days' prior notice to each Pledgor of the time and place, with respect to the Pledge Agreement Collateral or any part thereof which shall then be or shall thereafter come into the possession, custody or control of the Collateral Agent, the other Secured Parties or any of their respective agents, sell, lease, assign or otherwise dispose of all or any part of such Pledge Agreement Collateral, at such place or places as the Collateral Agent deems best, and for cash or for credit or for future delivery (without thereby assuming any credit risk), at public or private sale, without demand of performance or notice of intention to effect any such disposition or of the time or place thereof (except such notice as is required above or by applicable statute and cannot be waived), and the Collateral Agent or any other Secured Party or anyone else may be the purchaser, lessee, assignee or recipient of any or all of the Pledge Agreement Collateral so disposed of at any public sale (or, to the maximum extent permitted by applicable Government Rule, at any private sale) and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any right or equity of redemption (statutory or otherwise), of any Pledgor, any such demand, notice and right or equity being hereby expressly waived and released to the maximum extent permitted by applicable Government Rule. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the sale may be so adjourned.

The proceeds of each collection, sale or other disposition under this Section 5.05 shall be applied in accordance with Section 5.08 hereof.

Each Pledgor recognizes that, by reason of certain prohibitions contained in the Securities Act of 1933, as amended, and applicable state securities laws, the Collateral Agent may be compelled, with respect to any sale of all or any part of the Pledge Agreement Collateral, to limit purchasers to those who will agree, among other things, to acquire the Pledge Agreement Collateral for their own account, for investment and not with a view to the distribution or resale

thereof. Each Pledgor acknowledges that any such private sale may be at prices and on terms less favorable to the Collateral Agent than those obtainable through a public sale without such restrictions, and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner and that the Collateral Agent shall have no obligation to engage in public sales and no obligation to delay the sale of any Pledge Agreement Collateral for the period of time necessary to permit the respective issuer thereof to register it for public sale.

5.06 Removals, Etc. Without at least 30 days' prior notice to the Collateral Agent, no Pledgor shall:

(a) maintain any of its Records at any office or maintain its principal place of business or chief executive office at any place other than at such Pledgor's address for notices set forth on the signature pages hereto, or

(b) change its corporate name, or the name under which it does business, from the name shown on the signature pages hereto.

5.07 Private Sale. The Collateral Agent and the other Secured Parties shall incur no liability as a result of the sale of the Pledge Agreement Collateral, or any part thereof, at any private sale pursuant to Section 5.05 hereof conducted in a commercially reasonable manner. Each Pledgor hereby waives, to the maximum extent permitted by applicable Government Rule, any claims against the Collateral Agent or any other Secured Party arising by reason of the fact that the price at which the Pledge Agreement Collateral may have been sold at such a commercially reasonable private sale was less than the price which might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if, to the extent that it is commercially reasonable to do so, the Collateral Agent accepts the first offer received and does not offer the Pledge Agreement Collateral to more than one offeree.

5.08 Application of Proceeds. Except as otherwise herein expressly provided, the proceeds of any collection, sale or other realization of all or any part of the Pledge Agreement Collateral pursuant hereto shall be remitted to the Collateral Agent in the form received with all necessary endorsements and, to the maximum extent permitted by applicable Government Rule, be applied in accordance with Section 6.04 of the Security Agreement.

5.09 Attorney-in-Fact. Without limiting any rights or powers granted by this Agreement to the Collateral Agent while no Event of Default has occurred and is continuing, upon the occurrence and during the continuance of any Event of Default the Collateral Agent is hereby appointed the attorney-in-fact of the Pledgors for the purpose of carrying out the provisions of this Article V and taking any action and executing any instruments which may be reasonably required to accomplish the purposes hereof, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, so long as the Collateral Agent shall be entitled under this Article V to make collections in respect of the Pledge Agreement Collateral, the Collateral Agent shall have the right and power to receive, endorse and collect all checks made payable to the order of the Pledgors representing any dividend, payment or other distribution in respect of the Pledge Agreement Collateral or any part thereof and to give full discharge for the same.

5.10 Perfection. Prior to the Closing Date, each Pledgor shall file or cause to be filed such financing statements and other documents in the offices set forth on Annex I hereto and such other offices as may be necessary to perfect the security interests granted by Article III hereof. Each Pledgor hereby authorizes the Collateral Agent to file one or more financing or continuation statements, and amendments thereto, relating to all or any part of the Pledge Agreement Collateral without the signature of such Pledgor where permitted by applicable Government Rule; provided that such authorization shall not release such Pledgor from its obligations under Section 5.01(b) hereof. Copies of any such statement or amendment thereto shall promptly be delivered to such Pledgor.

5.11 Release and Termination.

(a) Upon any transfer of any Pledge Agreement Collateral by any Pledgor not prohibited by this Agreement or the Financing Documents, the Collateral Agent shall, upon the written request of (and at the sole cost and expense of) such Pledgor, promptly execute and deliver to such Pledgor such Uniform Commercial Code termination statements and such other documentation as shall be requested by such Pledgor to effect the termination and release of the Liens on such Pledge Agreement Collateral.

(b) Upon the date that the Secured Obligations are indefeasibly paid in full, the security interest created by this Agreement shall terminate and all rights to the Pledge Agreement Collateral shall revert to the Pledgors, and the Collateral Agent shall, upon receipt of written notice from the Agent that the Secured Obligations have been so paid, forthwith cause to be assigned, transferred and delivered, against receipt but without any recourse, warranty or representation whatsoever, any remaining Pledge Agreement Collateral and money received in respect thereof, to or on the order of the Pledgors. The Collateral Agent shall also promptly execute and deliver to each Pledgor at such Pledgor's expense, upon receipt of such written notice from the Agent, such Uniform Commercial Code termination statements and such other documentation as shall be requested by such Pledgor to effect the termination and release of the Liens on the Pledge Agreement Collateral.

5.12 Further Assurances. Each Pledgor agrees that, from time to time upon the request of the Collateral Agent, each Pledgor shall execute and deliver such further documents and do such other acts and things as the Collateral Agent may reasonably request in order fully to effectuate the purposes of this Agreement.

**ARTICLE VI**

**MISCELLANEOUS**

6.01 Expenses of Pledgor's Agreements and Duties. The terms, conditions, covenants and agreements to be observed or performed by each Pledgor under this Agreement shall be observed or performed by it at its sole cost and expense.

6.02 Collateral Agent's Right to Perform on Pledgor's Behalf. If any Pledgor shall fail to observe or perform any of the terms, conditions, covenants and agreements to be observed or performed by it under this Agreement, the Collateral Agent may (but shall not be

obligated to), to the extent legally practicable (and so long as the rights of the Collateral Agent shall not be adversely affected thereby (as determined by the Collateral Agent)), upon reasonable notice to such Pledgor, do the same or cause it to be done or performed or observed at the expense of such Pledgor, either in its name or in the name and on behalf of such Pledgor, and such Pledgor hereby authorizes the Collateral Agent so to do.

6.03 Waivers of Rights Inhibiting Enforcement. Each Pledgor waives:

(a) any claim that, as to any part of the Pledge Agreement Collateral, a public sale, should the Collateral Agent elect so to proceed, is, in and of itself, not a commercially reasonable method of sale for the Pledge Agreement Collateral,

(b) the right to assert in any action or proceeding between it and the Collateral Agent relating to this Agreement any offsets or counterclaims (other than mandatory counterclaims) that it may have,

(c) except as otherwise provided in this Agreement, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NOTICE OR JUDICIAL HEARING IN CONNECTION WITH THE COLLATERAL AGENT'S TAKING POSSESSION OR DISPOSITION OF ANY OF THE PLEDGE AGREEMENT COLLATERAL INCLUDING ANY AND ALL PRIOR NOTICE AND HEARING FOR ANY PREJUDGMENT REMEDY OR REMEDIES AND ANY SUCH RIGHT THAT SUCH PLEDGOR WOULD OTHERWISE HAVE UNDER THE CONSTITUTION OR ANY STATUTE OF THE UNITED STATES OR OF ANY STATE, AND ALL OTHER REQUIREMENTS AS TO THE TIME, PLACE AND TERMS OF SALE OR OTHER REQUIREMENTS WITH RESPECT TO THE ENFORCEMENT OF THE COLLATERAL AGENT'S RIGHTS HEREUNDER,

(d) all rights of redemption, appraisalment, valuation, stay and extension or moratorium, and

(e) all other rights the exercise of which would, directly or indirectly, prevent, delay or inhibit the enforcement of any of the rights or remedies under this Agreement or the absolute sale of the Pledge Agreement Collateral, now or hereafter in force under any applicable Government Rule, and each Pledgor, for itself and all who may claim under it, insofar as it or they now or hereafter lawfully may, hereby waive the benefit of all such laws and rights.

6.04 No Waiver. No failure on the part of 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 remedy hereunder shall operate as a waiver thereof, and no single or partial exercise by the Collateral Agent or any of its agents of any right, power or remedy hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided herein are cumulative and are not exclusive of any remedies provided by applicable Government Rule.

6.05 Notices. All notices, requests and other communications provided for in this Agreement shall be given or made in writing (including by telecopy) and delivered to the intended recipient at the address specified below or, as to any party, at such other address as is designated by that party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopy or personally delivered or, in the case of a mailed notice or notice sent by courier, upon receipt, in each case given or addressed as provided in this Section 6.05.

If to the Pledgors:

Sabine Pass LNG – LP, LLC  
2215 –B Renaissance Drive, Suite 5  
Las Vegas, NV 88119

Sabine Pass LNG – GP, Inc.  
717 Texas Avenue, Suite 3100  
Houston, TX 77002

If to the Collateral Agent:

HSBC Bank USA, National Association  
452 Fifth Avenue  
New York, NY 10018  
Attn: Corporate Trust

with a copy to:

DLA Piper Rudnick Gray Cary US LLP  
One Liberty Place  
1650 Market Street, Suite 4900  
Philadelphia, PA 19103  
Attn: Peter Tucci, Esq.

6.06 Waivers, Etc. This Agreement may be amended, supplemented or modified only by an instrument in writing signed by each Pledgor and the Collateral Agent acting in accordance with the Credit Agreement, and any provision of this Agreement may be waived by the Collateral Agent acting in accordance with the Credit Agreement; provided that no amendment, supplement, modification or waiver shall, unless by an instrument in writing signed by the Collateral Agent acting with the consent of all of the Secured Parties, alter the terms of this Section 6.06. Any waiver shall be effective only in the specific instance and for the specified purpose for which it was given.

6.07 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each Pledgor, the Collateral Agent, the other Secured Parties and each holder of any of the Secured Obligations (provided, however, that no Pledgor shall assign or transfer its rights hereunder without the prior consent of the Collateral Agent acting in accordance with Credit Agreement).

6.08 Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument and either of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement shall become effective at such time as the Collateral Agent and the Pledgors shall have received counterparts hereof signed by all of the intended parties hereto.

6.09 Agents, Etc. The Collateral Agent may employ agents and attorneys-in-fact in connection herewith and shall not be responsible for the negligence or misconduct of any such agents or attorneys-in-fact selected by it in good faith. Each Pledgor acknowledges that it has received a copy of the Credit Agreement and the Security Agreement and acknowledges and agrees to the terms and conditions of the Credit Agreement and the Security Agreement as the same apply hereto.

6.10 Severability. If any provision hereof is invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by applicable Government Rule, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the parties hereto as nearly as may be possible and (b) 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.

6.11 The Collateral Agent. As provided in Section 2.01 of the Collateral Agency Agreement, the Secured Parties have appointed HSBC Bank USA, National Association, as their Collateral Agent for purposes of this Agreement.

6.12 Headings. Headings appearing herein are used solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

6.13 Limitation of Liability. NEITHER THE COLLATERAL AGENT NOR ANY OTHER SECURED PARTY SHALL HAVE LIABILITY WITH RESPECT TO, AND EACH PLEDGOR HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE FOR:

(a) ANY LOSS OR DAMAGE SUSTAINED BY SUCH PLEDGOR, OR ANY LOSS, DAMAGE, DEPRECIATION OR OTHER DIMINUTION IN THE VALUE OF ANY PLEDGE AGREEMENT COLLATERAL, THAT MAY OCCUR AS A RESULT OF, IN CONNECTION WITH, OR THAT IS IN ANY WAY RELATED TO, ANY EXERCISE OF ANY RIGHT OR REMEDY UNDER THIS AGREEMENT EXCEPT FOR ANY SUCH LOSS, DAMAGE, DEPRECIATION OR DIMINUTION TO THE EXTENT THAT THE SAME IS THE RESULT OF ACTS OR OMISSIONS ON THE PART OF SUCH SECURED PARTY CONSTITUTING WILLFUL MISCONDUCT OR GROSS NEGLIGENCE; OR

(b) ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES SUFFERED BY SUCH PLEDGOR IN CONNECTION WITH ANY CLAIM RELATED TO THIS AGREEMENT.



6.14 Security Interest Absolute. The rights and remedies of the Collateral Agent hereunder, the Liens created hereby and the obligations of each Pledgor hereunder are absolute, irrevocable and unconditional, irrespective of:

- (a) the validity or enforceability of any of the Secured Obligations, the Partnership Agreement, any other Financing Document or any other agreement or instrument relating thereto;
- (b) any amendment to, waiver of, consent to or departure from, or failure to exercise any right, remedy, power or privileges under or in respect of, any of the Secured Obligations, the Partnership Agreement, any other Financing Document or any other agreement or instrument relating thereto;
- (c) the acceleration of the maturity of any of the Secured Obligations or any other modification of the time of payment thereof;
- (d) any substitution, release or exchange of any other security for or guarantee of any of the Secured Obligations or the failure to create, preserve, validate, perfect or protect any other Lien granted to, or purported to be granted to, or in favor of, the Collateral Agent or any other Secured Party; or
- (e) any other event or circumstance whatsoever which might otherwise constitute a legal or equitable discharge of a surety or a guarantor other than payment or performance of the Secured Obligations, it being the intent of this Section 6.14 that the obligations of each Pledgor hereunder shall be absolute, irrevocable and unconditional under any and all circumstances.

6.15 Subrogation. To the greatest extent permitted by Government Rule, no Pledgor shall exercise, and each Pledgor hereby irrevocably waives, any claim, right or remedy that it may now have or may hereafter acquire against the Borrower arising under or in connection with this Agreement, including, without limitation, any claim, right or remedy of subrogation, contribution, reimbursement, exoneration, indemnification or participation arising under contract, by Government Rule or otherwise in any claim, right or remedy of the Collateral Agent against the Borrower or any other Person or any Collateral which the Collateral Agent may now have or may hereafter acquire until the date the Secured Obligations are indefeasibly paid in full. If, notwithstanding the preceding sentence, any amount shall be paid to any Pledgor on account of such subrogation rights at any time when any of the Secured Obligations shall not have been paid in full, such amount shall be held by such Pledgor in trust for the Collateral Agent and the Secured Parties, segregated from other funds of such Pledgor and be turned over to the Collateral Agent in the exact form received by such Pledgor (duly endorsed by such Pledgor to the Collateral Agent, if required), to be applied against the Secured Obligations, whether matured or unmatured, in accordance with the Credit Agreement and the Security Documents.

6.16 Reinstatement. This Agreement and the Lien created hereunder shall automatically be reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Secured Obligations is rescinded or must otherwise be restored by any holder of the Secured Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Pledgor shall indemnify the Collateral Agent and its employees, officers and agents on demand for all reasonable and documented fees, costs and expenses (including, without limitation, the reasonable fees, costs and expenses of counsel)

incurred by the Collateral Agent or its employees, officers or agents in connection with such rescission or restoration.

6.17 NO THIRD PARTY BENEFICIARIES. THE AGREEMENTS OF THE PARTIES HERETO ARE SOLELY FOR THE BENEFIT OF EACH PLEDGOR, THE COLLATERAL AGENT AND THE OTHER SECURED PARTIES, AND NO PERSON (OTHER THAN THE PARTIES HERETO, THE OTHER SECURED PARTIES AND THEIR SUCCESSORS AND ASSIGNS PERMITTED HEREUNDER) SHALL HAVE ANY RIGHTS HEREUNDER.

6.18 CONSENT TO JURISDICTION. ALL LEGAL ACTIONS OR PROCEEDINGS BROUGHT AGAINST ANY PLEDGOR, SECURED PARTY OR THE BORROWER WITH RESPECT TO THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE BOROUGH OF MANHATTAN IN THE STATE OF NEW YORK, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT EACH PLEDGOR, THE BORROWER AND THE SECURED PARTIES ACCEPT FOR THEMSELVES AND IN CONNECTION WITH THEIR PROPERTIES, THE JURISDICTION OF THE AFORESAID COURTS, AND IRREVOCABLY AGREE TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT. EACH PLEDGOR, THE BORROWER AND THE SECURED PARTIES HEREBY EXPRESSLY AND IRREVOCABLY WAIVE ANY CLAIM OR DEFENSE IN ANY SUCH ACTION OR PROCEEDING BASED ON ANY ALLEGED LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS OR ANY SIMILAR BASIS. EACH PLEDGOR HEREBY APPOINTS AND DESIGNATES CT CORPORATION SYSTEM, WHOSE ADDRESS IS 111 EIGHTH AVENUE, 13<sup>TH</sup> FLOOR, NEW YORK, NY 10011, OR ANY OTHER PERSON HAVING AND MAINTAINING A PLACE OF BUSINESS IN THE STATE OF NEW YORK WHOM SUCH PLEDGOR MAY FROM TIME TO TIME HEREAFTER DESIGNATE (HAVING GIVEN 30 DAYS' NOTICE THEREOF TO THE COLLATERAL AGENT AND EACH HOLDER OF A NOTE THEN OUTSTANDING), AS THE DULY AUTHORIZED AGENT FOR RECEIPT OF SERVICE OF LEGAL PROCESS. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE PARTIES TO BRING PROCEEDINGS IN THE COURTS OF ANY OTHER JURISDICTION OR TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW.

6.19 WAIVER OF JURY TRIAL. AS AMONG EACH PLEDGOR, THE BORROWER AND THE COLLATERAL AGENT AND AS TO THIS AGREEMENT AND EACH FINANCING DOCUMENT AND PROJECT DOCUMENT TO WHICH SUCH PERSONS ARE A PARTY, EACH PLEDGOR, THE BORROWER AND THE COLLATERAL AGENT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH THIS AGREEMENT, AND ANY SUCH FINANCING DOCUMENT.

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6.20 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE SECURITY INTEREST HEREUNDER, OR REMEDIES HEREUNDER, ARE GOVERNED BY THE LAW OF ANY JURISDICTION OTHER THAN THE STATE OF NEW YORK.

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IN WITNESS WHEREOF, the parties hereto have caused this Pledge Agreement to be duly executed and delivered as of the day and year first above written.

SABINE PASS LNG – LP, LLC

By: \_\_\_\_\_

Name:

Title:

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EXHIBIT E  
TO CREDIT AGREEMENT

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SABINE PASS LNG – GP, INC.

By: \_\_\_\_\_

Name:

Title:

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EXHIBIT E  
TO CREDIT AGREEMENT

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HSBC BANK USA, NATIONAL ASSOCIATION,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT E  
TO CREDIT AGREEMENT

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SABINE PASS LNG, L.P.,  
as Borrower

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT E  
TO CREDIT AGREEMENT

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SOCIÉTÉ GÉNÉRALE,  
as Agent

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT E  
TO CREDIT AGREEMENT



TERMS OF SUBORDINATION

Section 1. Definitions. Terms used in these Terms of Subordination and not defined in these Terms of Subordination shall have the meanings assigned to such terms in the Credit Agreement, as defined below. The following terms shall have the following respective meanings:

“Borrower” shall mean Sabine Pass LNG, L.P., a Delaware limited partnership.

“Credit Agreement” shall mean the Credit Agreement dated as of February 25, 2005 among the Borrower, each of the lenders party to the Credit Agreement (the “Lenders”), SOCIÉTÉ GÉNÉRALE, as agent for the Lenders (in such capacity, together with its successors in such capacity, the “Agent”) and HSBC BANK USA, NATIONAL ASSOCIATION as collateral agent for the secured parties specified therein (in such capacity, the “Collateral Agent”), as amended, amended and restated, novated or supplemented from time to time.

“Secured Obligations” shall mean, as at any date, the sum, computed without duplication, of the following: (a) the aggregate outstanding principal amount of the Loans plus all accrued interest on such amount plus (b) all other amounts from time to time payable under the Financing Documents plus accrued interest on such amounts plus (c) all amounts payable by the Borrower to any Lender in connection with any Permitted Swap Agreement plus (d) any and all obligations of the Borrower to the Agent, the Collateral Agent or any other Secured Party for the performance of its agreements, covenants or undertakings under or in respect of any Financing Document.

“Secured Parties” shall mean the Agent, the Collateral Agent and each of the Lenders (as a Lender under the Credit Agreement and, if applicable, as a provider of any Permitted Swap Agreements (as defined in the Credit Agreement)).

“Subordinated Indebtedness” shall mean any unsecured Indebtedness of the Borrower to any Person permitted by Section 8.16 of the Credit Agreement which is subordinated to the Secured Obligations pursuant to this Exhibit F.

“Subordinated Party” shall mean the Person that has agreed to be bound by these Terms of Subordination, together with its successors and assigns.

Section 2. Terms of Subordination.

2.01 Subordination. The Borrower covenants and agrees, and the Subordinated Party, on its own behalf and on behalf of each subsequent holder of Subordinated Indebtedness, covenants and agrees, that the Subordinated Indebtedness is subordinated in right of payment, to the extent and in the manner provided in this Section 2, to the indefeasible prior payment in full in cash of all existing and future Secured Obligations and that the subordination provided for in this Section 2 is for the benefit of Persons holding Secured Obligations from time to time, and

their representatives. This Section 2 shall remain in full force and effect as long as any Secured Obligations are outstanding or any commitment to advance any Secured Obligations exists.

2.02 Liquidation; Dissolution; Bankruptcy. Upon any payment or distribution of assets or securities of the Borrower of any kind or character, whether in cash, securities or other property, to creditors of the Borrower in a liquidation (total or partial), reorganization, winding-up or dissolution of the Borrower, whether voluntary or involuntary, or in a bankruptcy, reorganization, insolvency, receivership, assignment for the benefit of creditors, marshalling of assets or similar proceeding relating to the Borrower or its Property or creditors:

(a) the holders of Secured Obligations shall be entitled to receive indefeasible payment in full, in cash, of such Secured Obligations before the Subordinated Party shall be entitled to receive any payment of principal of or interest on, or any other payment or distribution of assets or securities (other than any interest or any securities the payment of which is subordinated at least to the same extent as the Subordinated Indebtedness to the Secured Obligations, the rate of interest on which does not exceed the effective rate of interest on the Subordinated Indebtedness and the principal of which, in whole or in part, is not due on or prior to the Final Maturity Date) with respect to, any Subordinated Indebtedness or on account of any purchase or other acquisition of any Subordinated Indebtedness by the Borrower; and

(b) until the Secured Obligations are indefeasibly paid in full in cash, any payment or distribution of assets or securities of the Borrower of any kind or character, whether in cash or other Property, to which the Subordinated Party would be entitled but for this Section 2 shall be made by the Borrower or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment of distribution directly to the holders of Secured Obligations to the extent necessary to pay all such Secured Obligations in full in cash.

2.03 No Payment. Each Subordinated Party hereby agrees that: (a) unless and until the principal of, and interest and premium (if any) on, and all other amounts in respect of, the Secured Obligations then due shall have been paid indefeasibly in full and in cash, no payment on account of the principal of, or interest or premium (if any) on, or any other amount in respect of, the Subordinated Indebtedness or any judgment with respect thereto (and no payment on account of the purchase or redemption or other acquisition of the Subordinated Indebtedness) shall be made by or on behalf of the Borrower and (b) unless and until the principal of, and interest and premium (if any) on, and all other amounts in respect of, the Secured Obligations shall have been paid indefeasibly in full and in cash no Subordinated Party shall (i) ask, demand, sue for, take or receive from the Borrower, by set-off or in any other manner any payment on account of the principal of, or interest or premium (if any) on, or any other amount in respect of, the Subordinated Indebtedness or (ii) seek any other remedy allowed at law or in equity against the Borrower for breach of the Borrower's obligations under any instruments representing such Subordinated Indebtedness. The provisions of this Section 2.03 shall not alter the rights of the holders of Senior Obligations under the provisions of Section 2.02 hereof.

2.04 Payments In Trust. If the Subordinated Party shall at any time receive any payment or distribution that is not permitted under this Section 2, such payment or distribution shall be held by the Subordinated Party in trust for the benefit of, and shall be promptly paid over and delivered to, in the form received but with any necessary endorsements, the Agent for the benefit of the holders of Secured Obligations (pro rata as to each of such holders on the basis of the respective amounts of Secured Obligations held by them), for application to the payment of all Secured Obligations remaining unpaid to the extent necessary to pay all Secured Obligations in full in cash in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the holders of Secured Obligations.

2.05 Subrogation. After all Secured Obligations are indefeasibly paid in full in cash and all commitments to advance any Secured Obligations have been terminated, and until the Subordinated Indebtedness is paid in full, the Subordinated Party shall be subrogated (equally and ratably with the holders of all indebtedness of the Borrower that by its express terms is subordinated to Secured Obligations of the Borrower to the same extent as the Subordinated Indebtedness is subordinated and that is entitled to like rights of subrogation) to the rights of the holders of Secured Obligations to receive distributions applicable to Secured Obligations to the extent that distributions otherwise payable to the Subordinated Party have been applied to payment of Secured Obligations.

2.06 No Impairment.

(a) Nothing in this Section 2 shall (i) impair, as between the Borrower and the Subordinated Party, the obligation of the Borrower to pay principal of and interest on the Subordinated Indebtedness in accordance with their terms, (ii) affect the relative rights of the Subordinated Party and the creditors of the Borrower other than the holders of Secured Obligations, (iii) if applicable, prevent the Subordinated Party from exercising remedies upon the occurrence of an "event of default" under the applicable agreement between the Borrower and the Subordinated Party, subject to the rights of holders of Secured Obligations under this Section 2 or (iv) create or imply the existence of any commitment on the part of the holders of Secured Obligations to extend credit to the Borrower.

(b) No right of any present or future holder of Secured Obligations to enforce the subordination provisions of this Section 2 shall at any time in any way be prejudiced or be impaired by any act or failure to act by the Borrower or anyone in custody of its assets or property or by its failure to comply with this Agreement. Without in any way limiting the generality of the foregoing, the holders of the Secured Obligations may, at any time and from time to time, without the consent of or notice to the Subordinated Party, without incurring any responsibility to the Subordinated Party and without impairing, limiting or releasing the subordination provided in this Section 2 or the obligations under this Section 2 of the Subordinated Party to the holders of the Secured Obligations, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Secured Obligations or any instrument evidencing the same or any agreement under which Secured Obligations are outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Secured Obligations; (iii) release any Person guaranteeing or otherwise liable for Secured Obligations; and (iv) exercise or refrain

from exercising any rights against the Borrower, any other Person or any collateral securing any Secured Obligations.

2.07 Reliance by Holders of Senior Obligations on Subordination Provisions. Each Subordinated Party by entering into the agreements or other instruments to which it is a party or of which it is a beneficiary evidencing Subordinated Indebtedness acknowledges and agrees that the provisions of this Section 2 are, and are intended to be, an inducement and a consideration to each holder of any Secured Obligations, whether such Secured Obligations were created or acquired before or after the issuance or incurrence of the Subordinated Indebtedness, to acquire and continue to hold, or to continue to hold, such Secured Obligations and such holder of Secured Obligations shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Secured Obligations. The provisions of this Section 2 may not be amended, altered or modified without the consent of the holders of such Secured Obligations.

2.08 Agent to Effectuate Subordination. Each Subordinated Party hereby appoints the Agent as its attorney-in-fact to take such actions as may be necessary to effectuate the subordination provided for in this Section 2, including in any proceeding referred to in Section 2.02. If a Subordinated Party does not file any proof or claim of debt in any such proceeding within 30 days prior to the last date for the filing of any such proof or claim of debt, then, so long as any Secured Obligations shall be outstanding, the Agent shall be entitled, and is hereby authorized, to file any appropriate proof or claim on behalf of the Subordinated Party.

2.09 No Waiver of Provisions. No right of the Agent or any holder of any Secured Obligations to enforce this Section 2 shall in any way be impaired by any act or failure to act on the part of the Borrower or on the part of the Agent or any such holder or by any noncompliance by the Borrower with the terms of any agreement or instrument evidencing the Subordinated Indebtedness, the Credit Agreement or any Financing Document, whether or not the Agent or any such holder has knowledge of such noncompliance. Without limiting the generality of the foregoing, the Agent and such holders may, without notice to or consent from the Subordinated Party and without impairing the right of the Agent or any such holder to enforce this Section 2, do any of the following:

- (a) amend, modify, supplement, renew, replace, or extend the terms of all or any part of the Secured Obligations or the Credit Agreement or any other Financing Document in any respect whatsoever;
- (b) sell or otherwise transfer, release, realize upon or enforce or otherwise deal with, all or any part of the Secured Obligations or the Credit Agreement or any other Financing Document or any collateral securing or guaranty supporting all or any part of the Secured Obligations;
- (c) settle or compromise all or any part of the Secured Obligations or any other liability of the Borrower to the Agent or any such holder and apply any sums received to the Secured Obligations or any such liability in such manner and order as the Agent or any such holder may determine; and

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(d) fail to take or to perfect, for any reason or for no reason, any Lien securing all or any part of the Secured Obligations, exercise or delay in or refrain from exercising any remedy against the Borrower or any security or guarantor for all or any part of the Secured Obligations, or make any election of remedies or otherwise deal freely with respect to all or any part of the Secured Obligations or any security or guaranty for all or any part of the Secured Obligations.

FORM OF PHASE 1 CONSTRUCTION REPORT  
PART A – FORM OF REPORT – OUTLINE OF CONTENTS

- [1.0 Executive Summary
  - Highlights for the Month
  - Activities Planned for next Month
  - Concerns
- 2.0 HSE Highlights
  - Accomplishments
  - Statistics
    - Health/Safety
    - Environmental
  - Issues
  - Activities planned for next month
- 3.0 Focus Areas
- 4.0 Schedule Status
  - Planned versus Actual (CPM)
  - Schedule Highlights
  - Schedule Analysis
- 5.0 Engineering Highlights
  - Accomplishments
  - Issues
  - Activities planned for next Month
- 6.0 Subcontracts and Procurement Highlights
  - Subcontracts
    - Accomplishments
    - Issues
    - Activities planned for next Month
  - Procurement
    - Accomplishments

- 
- Issues
  - Activities planned for next Month
- 7.0 Construction Highlights
- Accomplishments
  - Issues
  - Activities planned for next Month
- 8.0 Permitting and Environmental Highlights
- Accomplishments
  - Issues
  - Activities planned for next Month
- 9.0 Quality Assurance Highlights
- Accomplishments
  - Issues
  - Activities planned for next Month
- 10.0 Cost Status
- Status of Contract Price
    - Original Contract Price
    - Phase 1 Change Orders
    - Current Approved Contract Price

Attachments

- Progress Photos
- Progress Status and Curves
- Trend List
- Payment Status
- Payment Milestones
- Drawing Status
- Purchase Order Status
- 90 Day Schedule]

See attached.



FORM OF CONSTRUCTION REPORT – Phase 2  
PART A – FORM OF REPORT – OUTLINE OF CONTENTS

- 1.0 Executive Summary
  - Highlights for the Month
  - Activities Planned for next Month
  - Concerns
- 2.0 HSE Highlights
  - Accomplishments
  - Statistics
    - Health/Safety
    - Environmental
  - Issues
  - Activities planned for next month
- 3.0 Focus Areas
- 4.0 Schedule Status
  - Planned versus Actual (CPM)
  - Schedule Highlights
  - Schedule Analysis
- 5.0 Engineering Highlights
  - Accomplishments
  - Issues
  - Activities planned for next Month
- 6.0 Contracts and Procurement Highlights
  - Contracts
    - Accomplishments
    - Issues
    - Activities planned for next Month
  - Procurement
    - Accomplishments
    - Issues

- 
- Activities planned for next Month

7.0 Construction Highlights

- Accomplishments
- Issues
- Activities planned for next Month

8.0 Permitting and Environmental Highlights

- Accomplishments
- Issues
- Activities planned for next Month

9.0 Quality Assurance Highlights

- Accomplishments
- Issues
- Activities planned for next Month

10.0 Cost Status

- Status of Phase 2 Cost
  - Original Phase 2 Cost
  - Trends and Change Orders
  - Current Projected Phase 2 Cost

Attachments

- Progress Photos
- Progress Status and Curves
- Payment Status
- Payment Milestones
- Drawing Status
- Purchase Order and Company Contract Status

90 Day Schedule

FORM OF MASTER ASSIGNMENT AND ACCEPTANCE AGREEMENT

- 1 -

EXHIBIT H-1  
TO CREDIT AGREEMENT

[Form of Assignment and Acceptance]

This ASSIGNMENT AND ACCEPTANCE AGREEMENT dated as of [\_\_\_\_], (this "Assignment Agreement") is hereby entered into between [\_\_\_\_] (the "Assignor") and [\_\_\_\_] (the "Assignee").

Reference is made to that certain Amended and Restated Credit Agreement dated as of \_\_\_\_\_, 2006 (as amended, modified and supplemented and in effect from time to time, the "Amended and Restated Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders from time to time party to the Amended and Restated Credit Agreement (the "Lenders"), SOCIÉTÉ GÉNÉRALE, as administrative agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the Lenders (in such capacity, together with its successors in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the meanings assigned to such terms in the Amended and Restated Credit Agreement.

The Assignor named below hereby sells and assigns, without recourse, to the Assignee named below, and the Assignee hereby purchases and assumes, without recourse, from the Assignor, effective as of the Assignment Date set forth below, the interests set forth below (the "Assigned Interest") in the Assignor's rights and obligations under the Amended and Restated Credit Agreement, including the interests set forth below in the Commitment of the Assignor on the Assignment Date and Loans owing to the Assignor which are outstanding on the Assignment Date, together with unpaid interest accrued on the assigned Loans to the Assignment Date held by the Assignor on the Assignment Date, and the amount, if any, set forth below of the fees accrued to the Assignment Date for account of the Assignor. The Assignee hereby acknowledges receipt of a copy of the Amended and Restated Credit Agreement. From and after the Assignment Date (a) the Assignee shall be a party to and be bound by the provisions of the Amended and Restated Credit Agreement and, to the extent of the interests assigned by this Assignment and Acceptance, have the rights and obligations of a Lender thereunder and (b) the Assignor shall, to the extent of the interests assigned by this Assignment and Acceptance, relinquish its rights and be released from its obligations under the Amended and Restated Credit Agreement.

This Assignment and Acceptance is being delivered to the Administrative Agent together with (a) if the Assignee is a Foreign Lender, any documentation required to be delivered by the Assignee pursuant to Section 5.04 of the Amended and Restated Credit Agreement, duly completed and executed by the Assignee, and (b) if the Assignee is not already a Lender under the Amended and Restated Credit Agreement, additional information reasonably required by the Administrative Agent, duly completed by the Assignee. The Assignor shall pay the fee payable to the Administrative Agent pursuant to Section 11.06 of the Amended and Restated Credit Agreement.

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This Assignment and Acceptance shall be governed by and construed in accordance with the laws of the State of New York.

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EXHIBIT H-2  
TO CREDIT AGREEMENT

[Lender]  
Date of Assignment:  
Legal Name of Assignor:  
Legal Name of Assignee:  
Assignee’s Address for Notices:  
Effective Date of Assignment  
 (“Assignment Date”):

	Principal Amount Assigned	Percentage Assigned of Commitment/Loans (set forth, to at least 8 decimals, as a percentage of the aggregate Commitments of all Lenders thereunder)
Commitment Assigned:	\$	%
Loans:		
Fees Assigned (if any):		

The terms set forth above are hereby agreed to:

[NAME OF ASSIGNOR],  
as Assignor

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF ASSIGNEE],  
as Assignee

By: \_\_\_\_\_  
Name:  
Title:

The undersigned hereby consent to the within assignment:<sup>1</sup>

SABINE PASS LNG, L.P.

By: \_\_\_\_\_  
Name:  
Title:

SOCIÉTÉ GÉNÉRALE

By: \_\_\_\_\_  
Name:  
Title:

<sup>1</sup> Consents to be included to the extent required by Section 11.06(b) of the Credit Agreement.

FORM OF CONFIDENTIALITY AGREEMENT

[Date]

[Name of Prospective Participant or Assignee]  
[address]

Re: [SABINE PASS LNG PROJECT]

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of [\_\_\_\_], 2006 (as amended, modified and supplemented and in effect from time to time, the "Amended and Restated Credit Agreement") among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), each of the lenders party to the Amended and Restated Credit Agreement from time to time (individually, a "Lender" and collectively, the "Lenders"), SOCIÉTÉ GÉNÉRALE, as agent for the Lenders (in such capacity, together with its successors in such capacity, the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION, as collateral agent for the secured parties specified therein. Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Amended and Restated Credit Agreement.

As a Lender party to the Amended and Restated Credit Agreement, the undersigned ("we" or "us") have agreed with the Borrower pursuant to Section 11.08(b) of the Amended and Restated Credit Agreement to keep confidential, in accordance with our customary procedures for handling confidential information of this nature and in accordance with safe and sound banking practices, any non-public information supplied to the Lenders by the Borrower that is identified by the Borrower as being confidential at the time the same is provided to us, other than information provided by the Borrower before the Effective Date, information provided by the Phase 1 EPC Contractor pursuant to Section 9.3 of the Phase 1 EPC Contract and information provided by a Phase 2 Construction Contractor pursuant to a Phase 2 Construction Contract or any other contractor entering into an agreement with the Borrower in relation to Phase 2, all of which shall be treated as confidential ("Confidential Information").

As provided in Section 11.08(b) of the Amended and Restated Credit Agreement, we are permitted to provide you, as a prospective Participant or assignee, with Confidential Information subject to your agreement to maintain the confidentiality of such Confidential Information as provided pursuant to Section 11.08(b) of the Amended and Restated Credit Agreement. To comply with the terms of Section 11.08(b), Confidential Information will not be made available to you until your execution and delivery to us of this Confidentiality Agreement.

Accordingly, in consideration of the foregoing, you agree (on behalf of yourself and each of your subsidiaries, affiliates, directors, officers, employees, attorneys, advisors and representatives) that (a) Confidential Information will not be used by you except in connection with the proposed participation or assignment mentioned above and (b) you shall diligently use



precautions, in accordance with your customary procedures for handling confidential information and in accordance with safe and sound banking practices to keep Confidential Information confidential; provided, that nothing herein shall limit the disclosure of any Confidential Information: (i) to the extent required by any Government Rule or judicial process, (ii) to your counsel or to counsel for the Agent, or any of the Lenders, or the Collateral Agent (to the extent not otherwise subject to this Confidentiality Agreement or to Section 11.08(b) of the Amended and Restated Credit Agreement), (iii) to auditors or accountants in connection with financial or regulatory auditing or reporting functions, (iv) after notice to the Borrower (to the extent such prior notice is legally permitted), in connection with any litigation to which you or the Agent or any one or more of the Lenders are a party and pursuant to which any such Person has been compelled or required to disclose such information in the reasonable opinion of counsel to such Person, (v) to a subsidiary or affiliate of yours, but subject to Section 11.08(b) of the Amended and Restated Credit Agreement; provided, that such subsidiary or affiliate shall be informed by you of the confidential nature of such information and shall be directed by you to treat such information in accordance with the terms of this Confidentiality Agreement (vi) to the Independent Engineer, the Insurance Advisor or to other experts engaged by the Agent, any Lender or the Collateral Agent in connection with the Amended and Restated Credit Agreement and the transactions contemplated thereby (provided, that such other expert first executes and delivers to you a Confidentiality Agreement substantially in the form hereof), (vii) to the extent that such Confidential Information is required to be disclosed to a Government Authority in connection with a tax audit or dispute, (viii) in connection with any Default and any enforcement or collection proceedings resulting therefrom or in connection with the negotiation of any restructuring or "work-out" (whether or not consummated) of the obligations of the Borrower under the Amended and Restated Credit Agreement or the obligations of any Project Party under any other Project Document or to the extent in the public domain (except for any Confidential Information in the public domain as a result of this Confidentiality Agreement or Section 11.08 of the Amended and Restated Credit Agreement), or (ix) to the extent to which the Borrower gives its prior written consent to the making of such disclosure. You agree that you will notify the Agent as soon as practical in the event of any such disclosure (other than as a result of an examination by any regulatory agency), unless such notification shall be prohibited by applicable law or legal process.

In the event you do not become a Participant or Lender under the Amended and Restated Credit Agreement, you shall be obligated to return or destroy any materials furnished to you (or furnished to you by any disclosee, as permitted by the paragraph immediately above) pursuant to this Confidentiality Agreement, without retaining any copies thereof unless prohibited from doing so by your internal policies and procedures.

You shall have no obligation hereunder with respect to any Confidential Information to the extent that such information (i) is or becomes generally available to the public other than as a result of a disclosure by you, one of your affiliates, or your respective representatives and agents, in violation of this Confidentiality Agreement, (ii) was within your possession prior to its being furnished to you pursuant hereto, provided that the source of such information was not known by you to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Borrower, its affiliates or any other party with respect to such information or (iii) is or becomes available to you on a non-confidential basis from a source other than the Borrower, its affiliates and their respective

representatives and agents; provided, that such source is not known by you to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Borrower, its affiliates or any other party with respect to such information.

Subject to the last sentence of this paragraph, [ ] agrees to indemnify us for any and all liabilities and breaches of this Confidentiality Agreement. The Borrower is the intended beneficiary of this Confidentiality Agreement. [ ] agrees that money damages would not be a sufficient remedy for any breaches under this Confidentiality Agreement by it or its representatives or agents and the Agent shall be entitled to specific performance and injunctive relief, without proof of actual damages, as remedies for any such breach. Such remedies shall not be deemed to be the exclusive remedies under this Confidentiality Agreement, but shall be in addition to all other remedies available at law or in equity to the Agent. Neither the Agent nor we shall be liable to you for any special, consequential or punitive damages in respect of any claim for breach of contract or any other theory or liability arising out of or relating to, or any act, omission or event occurring in connection with this Confidentiality Agreement, and you hereby waive, release and agree not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in your favor.

This Confidentiality Agreement contains the sole and entire agreement between you and us with respect to Confidential Information. If any portion of this Confidentiality Agreement is for any reason held to be invalid or illegal or unenforceable by any court of competent jurisdiction, such portion will be deemed to be separate, distinct and independent and the remainder of this Confidentiality Agreement will be and remain in full force an effect and will not be invalidated or rendered invalid or illegal or unenforceable or otherwise affected by such holding or adjudication.

This Confidentiality Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which when taken together shall constitute one and the same agreement.

This Confidentiality Agreement may be amended, modified or waived only by a separate written instrument executed by you and us.

This Confidentiality Agreement shall terminate on the date occurring three years from the date hereof unless and until you become a Participant or Lender under the Amended and Restated Credit Agreement, in which case the terms of the Amended and Restated Credit Agreement shall immediately supersede the terms of this Confidentiality Agreement.

This Confidentiality Agreement may be governed by and construed in accordance with the laws of the State of New York.

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Please indicate your agreement to the foregoing by signing at the place provided below the enclosed copy of this Confidentiality Agreement.

Very truly yours,

[NAME OF LENDER],  
as Lender under the Amended and Restated  
Credit Agreement referred to above

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

The foregoing is agreed to  
as of the date of this letter:

[Name of prospective Participant or assignee]

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT I  
TO CREDIT AGREEMENT

FORM OF SECURITY AGREEMENT

SECURITY AGREEMENT

This SECURITY AGREEMENT, dated as of February 25, 2005 (this "Agreement"), is made among SABINE PASS LNG, L.P., a Delaware limited partnership (the "Borrower"), SOCIÉTÉ GÉNÉRALE as administrative agent (the "Agent") and HSBC BANK USA, NATIONAL ASSOCIATION as collateral agent (the "Collateral Agent") on behalf of and for the benefit of the Secured Parties.

RECITALS

A. Pursuant to the Credit Agreement, dated as of February 25, 2005 (the "Credit Agreement"), among the Borrower, each of the lenders that is or may from time to time become a party thereto (collectively, the "Lenders"), SOCIÉTÉ GÉNÉRALE, in its capacities as a Lender and as Agent for the Lenders (in such capacity, the "Agent"), and HSBC BANK USA, NATIONAL ASSOCIATION, as Collateral Agent, the Lenders have agreed to make certain Loans to the Borrower, on the terms and subject to the conditions of the Credit Agreement. In addition, the Borrower may, from time to time, be obligated to various of said Lenders (or their Affiliates) in respect of Permitted Swap Agreements (as defined in the Credit Agreement).

B. It is a requirement under the Credit Agreement and a condition precedent to the making of the Loans that the Borrower shall have executed and delivered this Agreement.

C. To induce the Lenders to enter into, and extend credit under, the Credit Agreement and the Permitted Swap Agreements, the Borrower has agreed to pledge and grant a security interest in the Collateral to the Collateral Agent as collateral security for the Secured Obligations.

NOW THEREFORE, in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.01 Certain Defined Terms.

(a) Unless otherwise defined herein, all capitalized terms used in this Agreement that are defined in the Credit Agreement (including those terms incorporated by reference) shall have the respective meanings assigned to them in the Credit Agreement.

(b) The terms "Accounts", "Chattel Paper", "Commercial Tort Claims", "Deposit Account", "Document", "Electronic Chattel Paper", "Equipment", "Fixtures", "General

Intangibles", "Goods", "Instrument", "Inventory", "Investment Property", "Letter of Credit", "Letter-of-Credit Rights", "Payment Intangible", "Proceeds", "Record" and "Software" shall have the respective meanings ascribed thereto in Article 9 of the Uniform Commercial Code. In addition to the terms defined in the preamble, recitals and the first sentence of this Section 1.01(b), the following terms shall have the following respective meanings:

"Assigned Agreement" shall have the meaning assigned to that term in Section 2.01.

"Collateral" shall have the meaning assigned to that term in Section 2.01.

"Copyrights" shall mean, collectively, (a) all copyrights, copyright registrations and applications for copyright registrations, (b) all renewals and extensions of all copyrights, copyright registrations and applications for copyright registration and (c) all rights, now existing or hereafter coming into existence: (i) to all income, royalties, damages and other payments (including in respect of all past, present or future infringements) now or hereafter due or payable under or with respect to any of the foregoing, (ii) to sue for all past, present and future infringements with respect to any of the foregoing and (iii) otherwise accruing under or pertaining to any of the foregoing throughout the world.

"Intellectual Property" shall mean all Copyrights, all Patents and all Trademarks, together with (a) all inventions, processes, production methods, proprietary information, know-how and trade secrets, (b) all licenses or user or other agreements granted to the Borrower with respect to any of the foregoing, in each case whether now or hereafter owned or used, (c) all information, customer lists, identification of suppliers, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, manuals, materials standards, processing standards, performance standards, catalogs, computer and automatic machinery software and programs, (d) all field repair data, sales data and other information relating to sales or service of products now or hereafter manufactured, (e) all accounting information and all media in which or on which any information or knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data, (f) all licenses, consents, permits, variances, certifications and approvals of governmental agencies now or hereafter held by the Borrower, in each case, to the extent assignable and (g) all causes of action, claims and warranties now owned or hereafter acquired by the Borrower in respect of any of the foregoing.

"Motor Vehicles" means motor vehicles, tractors, trailers and other like property, whether or not the title thereto is governed by a certificate of title or ownership.

"Patents" shall mean, collectively, (a) all patents and patent applications, (b) all reissues, divisions, continuations, renewals, extensions and continuations-in-part of all patents or patent applications and (c) all rights, now existing or hereafter coming into existence: (i) to all income, royalties, damages, and other payments (including in respect of all past, present and future infringements) now or hereafter due or payable under or with respect to any of the foregoing, (ii) to sue for all past, present and future infringements with respect to any of the foregoing and (iii) otherwise accruing under or pertaining to any of the foregoing throughout the

world, including all inventions and improvements described or discussed in all such patents and patent applications.

“Trademarks” shall mean, collectively, (a) all trade names, trademarks and service marks, logos, trademark and service mark registrations and applications for trademark and service mark registrations, (b) all renewals and extensions of any of the foregoing and (c) all rights, now existing or hereafter coming into existence: (i) to all income, royalties, damages and other payments (including in respect of all past, present and future infringements) now or hereafter due or payable under or with respect to any of the foregoing, (ii) to sue for all past, present and future infringements with respect to any of the foregoing and (iii) otherwise accruing under or pertaining to any of the foregoing throughout the world, together, in each case, with the product lines and goodwill of the business connected with the use of, or otherwise symbolized by, each such trade name, trademark and service mark. Notwithstanding the foregoing, “Trademark” does not and shall not include any Trademark that would be rendered invalid, abandoned, void or unenforceable by reason of its being included as a Trademark for the purposes of this Agreement.

“Uniform Commercial Code” or “UCC” shall mean the Uniform Commercial Code as in effect in the State of New York from time to time; ~~provided~~, that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non-perfection of any security interests hereunder in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, “UCC” shall mean the Uniform Commercial Code as in effect in such other jurisdiction for the purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

1.02 Interpretation. The principles of construction and interpretation set forth in Sections 1.02 and 1.03 of the Credit Agreement shall apply to, and are hereby incorporated by reference in, this Agreement.

## ARTICLE II THE COLLATERAL

2.01 Grant. As collateral security for the prompt payment in full when due (whether at stated maturity, upon acceleration, on any optional or mandatory prepayment date or otherwise) and performance of the Secured Obligations, the Borrower hereby pledges and grants to the Collateral Agent, for the benefit of the Secured Parties, a security interest in all of its right, title and interest in and to the following property, assets and revenues, whether now owned or in the future acquired by it and whether now existing or in the future coming into existence and wherever located (collectively, the “Collateral”):

(a) the Collateral Accounts and all amendments, extensions, renewals, and replacements thereof whether under the same or different account number, together with all funds, cash, monies, credit balances, financial assets, investments, Instruments, certificates of deposit, promissory notes, and any other property (including any Permitted Investments) at any time on deposit therein or credited to any of the foregoing, all rights to payment or withdrawal therefrom, and all proceeds, accounts receivable arising in the

ordinary course, products, accessions, profits, gains, and interest thereon of or in respect of any of the foregoing;

(b) the agreements, contracts and documents listed in Annex A (including all exhibits and schedules thereto) and each additional Project Document to which the Borrower is or may from time to time be a party or of which it is or may from time to time be a beneficiary, whether executed by the Borrower or by an agent on behalf of the Borrower, as each such agreement, contract and document may be amended, supplemented or modified and in effect from time to time (such agreements, contracts and documents, being individually, an “Assigned Agreement”, and, collectively, the “Assigned Agreements”) including all rights of the Borrower (i) to receive moneys thereunder, whether or not earned by performance or for property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of pursuant thereto, (ii) to receive proceeds of any performance or payment bond, liability or business interruption insurance, indemnity, warranty, guaranty or letters of credit with respect thereto, (iii) to all claims of the Borrower for damages arising out of, for breach of or default thereunder by any party other than the Borrower and (iv) to take any action to terminate, amend, supplement, modify or waive performance thereof, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder;

(c) all Accounts, Deposit Accounts, Instruments, Documents, Chattel Paper (including Electronic Chattel Paper), Letters of Credit and Letter-of-Credit Rights, Inventory, Equipment, Fixtures (including, without limitation, those located on or forming part of the Site), Investment Property, Payment Intangibles, Software and, to the extent not already covered by the other enumerated categories of Collateral described in this clause (c), all Goods and General Intangibles; including, without limitation, all LNG and Gas owned by the Borrower and the Project to be constructed on or near the Site pursuant to the plans and specifications set forth in the EPC Contract, all other machinery, apparatus, installation facilities, including all goods of the Borrower that are spare parts and related supplies, and all goods obtained by the Borrower in exchange for any such goods, all substances, if any, commingled with or added to such goods, all upgrades and other improvements to such goods and all other tangible personal property owned by the Borrower or in which the Borrower has rights, and all fixtures and all parts thereof and accessions thereto;

(d) all Investment Property and “Financial Assets” and “Securities Account” (each as defined in the UCC);

(e) all Commercial Tort Claims;

(f) all Government Approvals now or hereafter held in the name, or for the benefit, of the Borrower or of the Project provided, that any Government Approval that by its terms (other than to the extent any such term would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the UCC) or by operation of law would be breached or become void, voidable, terminable or revocable if mortgaged, pledged or assigned hereunder or if a security interest therein was granted hereunder, are,

in each case, expressly excepted from the Collateral to the extent necessary so as to avoid such voidness, avoidability, terminability or revocability;

(g) all Records of the Borrower directly related to, or necessary for the use of, the foregoing Collateral included in clauses (a) - (e);

(h) all Intellectual Property; and

(i) all other tangible and intangible personal Property whatsoever of the Borrower and all cash, products, offspring, rents, revenues, issues, profits, royalties, income, benefits, accessions, Equity Contribution Amounts, additions, substitutions and replacements of and to any and all of the foregoing, including all Proceeds of and to any of the Property the Borrower described in the preceding paragraphs of this Section 2.01 (including, without limitation, any Loss Proceeds or other Proceeds of insurance thereon (whether or not the Collateral Agent is loss payee thereof), and any indemnity, warranty or guarantee, payable by any reason of loss or damage to or otherwise with respect to any of the foregoing, and all causes of action, claims and warranties now or hereafter held by the Borrower in respect of any of the items listed above).

2.02 Perfection. Concurrently with the execution and delivery of this Agreement, the Borrower shall (a) file such financing statements and other documents in such offices as shall be necessary or as the Collateral Agent may reasonably request to perfect and establish the priority of the Liens granted by this Agreement, (b) subject to Section 2.05, deliver and pledge to the Collateral Agent any and all Instruments comprising any part of the Collateral, endorsed or accompanied by such instruments of assignment and transfer in such form and substance as the Collateral Agent may request and (c) take all such other actions as shall be necessary or as the Collateral Agent may reasonably request to perfect and establish the priority of the Liens granted by this Agreement.

2.03 Preservation and Protection of Security Interests. The Borrower shall:

(a) subject to Section 2.05, upon the acquisition after the date hereof by the Borrower of any Instruments comprising any part of the Collateral, promptly deliver and pledge to the Collateral Agent all such Instruments, endorsed or accompanied by such instruments of assignment and transfer in such form and substance as the Collateral Agent may reasonably request;

(b) give, execute, deliver, file or record any and all financing statements, notices, contracts, agreements or other instruments, obtain any and all Government Approvals and take any and all steps that may be necessary or as the Collateral Agent may reasonably request to create, perfect, establish the priority of, or to preserve the validity, perfection or priority of, the Liens granted by this Agreement or to enable the Collateral Agent to exercise and enforce its rights, remedies, powers and privileges under this Agreement with respect to such Liens;

(c) maintain, hold and preserve full and accurate Records concerning the Collateral, and stamp or otherwise mark such Records in such manner as may reasonably be required in order to reflect the Liens granted by this Agreement; and



(d) at any time upon request of the Collateral Agent, cause the Collateral Agent to be listed as the lienholder on any certificate of title or ownership covering any Motor Vehicle (other than Motor Vehicles constituting Inventory) and within 120 days of such request deliver evidence of the same to the Agent.

2.04 Attorney-in-Fact. Subject to the rights of the Borrower under Sections 2.05 and 2.06, the Borrower hereby appoints the Collateral Agent as its attorney-in-fact for the purpose of carrying out the provisions of this Agreement and, following the occurrence and during the continuation of an Event of Default, taking any action and executing any instruments which the Collateral Agent may deem necessary or reasonably advisable to accomplish the purposes of this Agreement, to preserve the validity, perfection and priority of the Liens granted by this Agreement and to exercise its rights, remedies, powers and privileges under Article VI of this Agreement. This appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Collateral Agent shall be entitled under this Agreement, following the occurrence and during the continuation of an Event of Default (a) to ask, demand, collect, sue for, recover, receive and give receipt and discharge for amounts due and to become due under and in respect of all or any part of the Collateral, (b) to receive, endorse and collect any Instruments or other drafts, documents and Chattel Paper in connection with clause (a) above (including any draft or check representing the proceeds of insurance or the return of unearned premiums), (c) to file any claims or take any action or proceeding that the Collateral Agent may deem necessary or reasonably advisable for the collection of all or any part of the Collateral, including the collection of any compensation due and to become due under any contract or agreement with respect to all or any part of the Collateral and (d) to execute, in connection with any sale or disposition of the Collateral under Article VI, any endorsements, assignments, bills of sale or other instruments of conveyance or transfer with respect to all or any part of the Collateral.

2.05 Instruments. So long as no Event of Default shall have occurred and be continuing, the Borrower may retain for collection in the ordinary course of business any Instruments comprising any part of the Collateral obtained by it in the ordinary course of business, and the Collateral Agent shall, promptly upon the request, and at the expense, of the Borrower make appropriate arrangements for making any Instruments pledged by the Borrower available to the Borrower for purposes of presentation, collection or renewal. Any such arrangement shall be effected, to the extent deemed appropriate by the Collateral Agent, against trust receipt or like document. Proceeds of Instruments shall be applied by the Borrower in accordance with the terms and provisions of the Collateral Agency Agreement.

2.06 Use of Collateral. So long as no Event of Default shall have occurred and be continuing, the Borrower shall, in addition to its rights under Section 2.05 in respect of the Collateral, be entitled, subject to the rights, remedies, powers and privileges of the Collateral Agent under Articles III and VI, to use and possess the Collateral and to exercise its rights, title and interests therein in any lawful manner not prohibited by this Security Agreement, the Credit Agreement, or the other Financing Documents.

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2.07 Rights and Obligations.

(a) The Borrower shall remain liable to perform its duties and obligations under the contracts and agreements included in the Collateral in accordance with their respective terms to the same extent as if this Agreement had not been executed and delivered. The exercise by the Collateral Agent or any Lender of any right, remedy, power or privilege in respect of this Agreement shall not release the Borrower from any of its duties and obligations under such contracts and agreements. Neither the Collateral Agent nor any Lender shall have a duty, obligation or liability under such contracts and agreements or in respect to any Government Approval included in the Collateral by reason of this Agreement or any other Financing Document, nor shall the Collateral Agent or any Lender be obligated to perform any of the duties or obligations of the Borrower under any such contract or agreement or any such Government Approval or to take any action to collect or enforce any claim (for payment) under any such contract or agreement or Government Approval.

(b) No Lien granted by this Agreement in the Borrower's right, title and interest in any contract, agreement or Government Approval shall be deemed to be a consent by the Collateral Agent or any Lender to any such contract, agreement or Government Approval.

(c) No reference in this Agreement to proceeds or to the sale or other disposition of Collateral shall authorize the Borrower to sell or otherwise dispose of any Collateral except to the extent otherwise expressly permitted by the terms of any Financing Document.

(d) Neither the Collateral Agent nor any Lender shall be required to take steps necessary to preserve any rights against prior parties to any part of the Collateral.

2.08 Continuing Security Interest; Termination. This Agreement shall create a continuing assignment of and security interest in the Collateral and shall (a) remain in full force and effect until the Termination Date, (b) be binding upon the Borrower, its successors and assigns and (c) inure, together with the rights and remedies of the Collateral Agent hereunder, to the benefit of the Collateral Agent and the other Secured Parties and their respective successors, transferees and assigns. Upon the occurrence of the Termination Date, this Agreement and each provision hereof (including any provision providing for the appointment of the Collateral Agent as attorney-in-fact for the Borrower) shall terminate, and upon receipt of written notice from the Agent that the Termination Date has occurred, the Collateral Agent shall forthwith cause to be assigned, transferred and delivered, against receipt but without any recourse, warranty or representation whatsoever, any remaining Collateral and money received in respect of the Collateral, to or on the order of the Borrower. The Collateral Agent shall also execute and deliver to the Borrower, at the Borrower's expense, upon receipt of written notice from the Agent of such Termination Date, such Uniform Commercial Code termination statements and such other documentation as shall be reasonably requested by the Borrower to effect the termination and release of the Liens granted by this Agreement.

2.09 Partial Release. Any distributions, payments or other releases from the Collateral Accounts (whether in the form of cash, Instruments or otherwise) properly made to or on behalf of the Borrower in accordance with the terms and conditions of the Collateral Agency

Agreement and the other Financing Documents, including Restricted Payments, and any property comprising part of the Collateral sold or otherwise disposed of as permitted by, and in accordance with, Section 8.11(a) of the Credit Agreement shall, in each case, be released from the Liens granted hereunder and shall no longer be part of the Collateral. With respect to any property disposed of in accordance with Section 8.11(a) of the Credit Agreement, upon written confirmation from the Agent, which confirmation shall not be unreasonably withheld or delayed, the Collateral Agent shall execute such documents as the Borrower may reasonably request evidencing the release of the Lien created by any of the Financing Documents upon such property.

2.10 Intellectual Property. For the purpose of enabling the Collateral Agent to exercise its rights, remedies, powers and privileges under Article VI at that time or times as the Collateral Agent is lawfully entitled to exercise those rights, remedies, powers and privileges, and for no other purpose, the Borrower hereby grants to the Collateral Agent, to the extent assignable, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Borrower) to use, assign, license or sublicense any Intellectual Property of the Borrower which is directly related to, or necessary and incidental to the use of, any of the Collateral, together with reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout of those items.

### ARTICLE III

#### COLLATERAL ACCOUNTS

The Borrower agrees and confirms that (a) pursuant to the Collateral Agency Agreement, it has caused to be established at the Collateral Agent each of the Construction Account, Construction Payment Subaccount, Punchlist Retention Subaccount, the Operating Account, the Debt Service Reserve Account, the Debt Service Accrual Account, the Insurance Proceeds Account, the Income Tax Reserve Account, the Distribution Account and the Revenue Account, in each case in the name of the Collateral Agent and (b) it has instructed (or, on or before the effectiveness of each Project Document that is entered into after the date hereof, will instruct) each of the other parties to the Project Documents that all payments constituting Project Revenues due or to become due to the Borrower under or in connection with each such Project Document shall be made directly to the Collateral Agent for deposit to the Revenue Account in accordance with the terms of the Collateral Agency Agreement. If, notwithstanding the foregoing, any such payment or proceeds are remitted directly to the Borrower, the Borrower shall hold such funds in trust for the Collateral Agent and shall promptly remit such payments for deposit to the Revenue Account in accordance with the Collateral Agency Agreement. In addition to the foregoing, the Borrower agrees that if the proceeds of any Collateral hereunder (including the payments made in respect of the Collateral Accounts) shall be received by it, the Borrower shall as promptly as possible transfer such Proceeds to the Collateral Agent for deposit to the Reserve Account. Until so deposited, all such proceeds shall be held in trust by the Borrower for and as the property of the Collateral Agent and shall not be commingled with any other funds or property of the Borrower.

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## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES

As of and on the date hereof, and as of and on the date of each extension of credit by the Lenders pursuant to the Credit Agreement, the Borrower represents and warrants to the Collateral Agent for the benefit of the Secured Parties as follows:

4.01 Title. The Borrower is the sole beneficial owner of the Collateral in which it purports to grant a security interest pursuant to Section 2, and such Collateral is free and clear of all Liens, except for Permitted Liens.

4.02 No Other Financing Statements. The Borrower has not executed and is not aware of any currently effective financing statement or other instrument similar in effect that is on file in any recording office covering all or any part of the Borrower's interest in the Collateral, except such as may have been filed pursuant to this Agreement and the other Financing Documents evidencing Permitted Liens, and so long as any portion of the Commitments have not been terminated or any of the Secured Obligations remain unpaid, the Borrower will not execute or authorize to be filed in any public office any financing statement (or similar statement or instrument of registration under the law of any jurisdiction) or statements relating to the Collateral, except for (i) financing statements filed or to be filed in respect of and covering the security interests granted hereby by the Borrower, (ii) financing statements filed or to be filed in respect of Permitted Liens or (iii) precautionary financing statements filed or to be filed in respect of operating leases of equipment entered into by the Borrower. The Borrower has not assigned any of its rights under the Instruments referred to in Section 2.01(c) except as expressly permitted under the Financing Documents. The Borrower has not consented to, and is not otherwise aware of, any Person, other than the Collateral Agent and Securities Intermediary, having either control (within the meaning of common law applicable to this Agreement), sole dominion, or "control" (within the meaning of the Uniform Commercial Code) over any interest in any Collateral Accounts or any funds or other property deposited therein.

4.03 Perfection Representations.

(a) The name of the Borrower shown on the signature pages to this Agreement is the exact legal name of the Borrower. The Borrower's "location" (within the meaning of the Uniform Commercial Code) is Delaware. The offices where the Borrower keeps Records concerning the Collateral and a set of the original counterparts of the Assigned Agreements are located at the addresses specified for the Borrower in Section 10.02, or such other location as specified in the most recent notice delivered pursuant to Section 5.01.

(b) The Borrower has not (1) within the period of four months prior to the date hereof, changed its "location" (within the meaning of the UCC), (2) changed its name, or (3) heretofore become a "new debtor" (within the meaning of the UCC) with respect to a currently effective security agreement previously entered into by any other Person.

4.04 Other Perfection Matters. Upon the filing of financing statements or other appropriate instruments pursuant to the Uniform Commercial Code in the offices set forth on

Schedule 4.04 attached hereto, the Collateral Agent's Liens in the Collateral granted hereunder shall be valid, continuing (subject to any requirement of the Uniform Commercial Code with respect to the filing of continuation statements), and perfected to the extent any such Lien may be perfected by the filing of a financing statement or other appropriate instrument. Upon the execution and delivery of the Collateral Agency Agreement and the establishment of the Collateral Accounts, the Collateral Agent's Liens in the Collateral Accounts and in any funds or other property from time to time deposited therein shall be valid, continuing, and perfected to the extent any such Lien may be perfected by "control" (within the meaning of the Uniform Commercial Code). All other action necessary or reasonably requested by the Collateral Agent to protect and perfect the Liens in the Collateral has been duly taken with respect to any Collateral that the Borrower now owns or in which the Borrower now has a right. The Liens granted by this Agreement in favor of the Collateral Agent for the benefit of the Secured Parties are subject to no other Liens, except Permitted Liens.

4.05 Fair Labor Standards Act. Any goods now or hereafter produced by the Borrower or any of its Subsidiaries included in the Collateral have been and will be produced in compliance with the requirements of the Fair Labor Standards Act, as amended.

## ARTICLE V

### COVENANTS

5.01 Books and Records. The Borrower shall (a) stamp or otherwise mark the Records in its possession that relate to the Collateral in such manner as the Collateral Agent may reasonably require in order to reflect the Liens granted by this Agreement and (b) give the Collateral Agent at least thirty (30) calendar days' notice before it changes the office where the Borrower keeps the Records.

5.02 Legal Status. The Borrower shall not change its type of organization or jurisdiction of organization without the Collateral Agent's prior written consent, not to be unreasonably withheld. The Borrower shall not change the name under which it does business from the name shown on the signature pages to this Agreement without giving the Collateral Agent thirty (30) days' prior written notice.

5.03 Sales and Other Liens. The Borrower shall not (a) dispose of any Collateral (except as expressly permitted pursuant to any of the Financing Documents), (b) create, incur, assume or suffer to exist any Lien (other than Permitted Liens) upon any Collateral or (c) file or suffer to be on file or authorize to be filed, in any jurisdiction, any financing statement or like instrument with respect to all or any part of the Collateral in which the Collateral Agent is not named as the sole secured party for the benefit of the Secured Parties (except for financing statements related to Permitted Liens and precautionary financing statements filed or to be filed in respect of operating leases of equipment entered into by the Borrower).

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5.04 Further Assurances.

(a) The Borrower agrees that, from time to time upon the written request of the Collateral Agent, the Borrower will execute and deliver such further documents and do such other acts and things as the Collateral Agent may reasonably request in order fully to effect the purposes of this Agreement.

(b) The Borrower hereby authorizes the Collateral Agent to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of the Borrower where permitted by law. Copies of any such statement or amendment thereto shall be promptly delivered to the Borrower.

(c) The Borrower shall pay all filing, registration and recording fees or re-filing, re-registration and re-recording fees, and all other expenses incident to the execution and acknowledgment of this Agreement, any agreement supplemental hereto and any instruments of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement, any agreement supplemental hereto and any instruments of further assurance.

**ARTICLE VI**

**REMEDIES**

6.01 Events of Default, Etc. Subject to the provisions of Section 10.05 hereof, if any Event of Default shall have occurred and be continuing:

(a) the Collateral Agent in its sole discretion may require the Borrower to, and the Borrower shall, assemble the Collateral owned by it at such place or places, reasonably convenient to both the Collateral Agent and the Borrower, designated in the Collateral Agent's request;

(b) the Collateral Agent in its sole discretion may make any reasonable compromise or settlement it deems desirable with respect to any of the Collateral and may extend the time of payment, arrange for payment in installments, or otherwise modify the terms of all or any part of the Collateral;

(c) the Collateral Agent in its sole discretion may, in its name or in the name of the Borrower or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for all or any part of the Collateral, but shall be under no obligation to do so;

(d) the Collateral Agent in its sole discretion may, upon ten (10) Business Days' prior written notice to the Borrower of the time and place, with respect to all or any part of the Collateral which shall then be or shall thereafter come into the possession, custody or control of the Collateral Agent or any other Secured Party or any of their respective agents, sell, lease or otherwise dispose of all or any part of such Collateral, at such place or places and at such time or times as the Collateral Agent deems best, for cash, on credit or for future delivery (without thereby assuming any credit risk) and at

public or private sale, without demand of performance or notice of intention to effect any such disposition of or time or place of any such sale (except such notice as is required above or by applicable statute and cannot be waived), and the Collateral Agent or any other Secured Party or any other Person may be the purchaser, lessee or recipient of any or all of the Collateral so disposed of at any public sale (or, to the extent permitted by law, at any private sale) and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any right or equity of redemption (statutory or otherwise), of the Borrower, any such demand, notice and right or equity being hereby expressly waived and released to the extent permitted by applicable Government Rule. The Collateral Agent shall not be obligated to make any sale pursuant to any such notice. The Collateral Agent may, in its sole discretion, at any such sale restrict the prospective bidders or purchasers as to their number, nature of business and investment intention to the extent necessary to comply with applicable Government Rule. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the sale may be so adjourned. In case of any sale of all or any part of the Collateral on credit or for future delivery, the Collateral so sold may be retained by the Collateral Agent until the full selling price is paid by the purchaser thereof, but neither the Collateral Agent nor any other Secured Party shall incur any liability in case of the failure of such purchaser to take up and pay for the Collateral so sold, and, in case of any such failure, such Collateral may again be sold pursuant to the provisions hereof; and

(e) the Collateral Agent shall have, and in its sole discretion may exercise, all of the rights, remedies, powers and privileges with respect to the Collateral of a secured party under the Uniform Commercial Code (whether or not the Uniform Commercial Code is in effect in the jurisdiction where such rights, remedies, powers and privileges are asserted) and such additional rights, remedies, powers and privileges to which a secured party is entitled under the laws in effect in any jurisdiction where any rights, remedies, powers and privileges in respect of this Agreement or the Collateral may be asserted, including the right, to the maximum extent permitted by applicable Government Rule, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Collateral Agent were the sole and absolute owner of the Collateral (and the Borrower agrees to take all such action as may be appropriate to give effect to such right).

The proceeds of, and other realization upon, the Collateral by virtue of the exercise of remedies under this Section 6.01 shall be applied in accordance with Section 6.04.

6.02 Deficiency. If the proceeds of, or other realization upon, the Collateral by virtue of the exercise of remedies under Section 6.01 are insufficient to cover the costs and expenses of such exercise and the payment in full of the other Secured Obligations, the Borrower shall remain liable for any deficiency.

6.03 Private Sale. The Collateral Agent and the Lenders shall incur no liability as a result of the sale, lease or other disposition of all or any part of the Collateral at any private sale pursuant to Section 6.01 conducted in a commercially reasonable manner. To the extent

permitted by applicable Government Rule, the Borrower hereby waives any claims against the Collateral Agent or any Lender arising by reason of the fact that the price at which the Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if the Collateral Agent accepts the first offer received and does not offer the Collateral to more than one offeree.

6.04 Application of Proceeds. Except as otherwise expressly provided in this Agreement, the proceeds of, or other realization upon, all or any part of the Collateral by virtue of the exercise of remedies under Section 6.01, and any other cash at the time held by the Collateral Agent under Article III or this Article VI at the time of the exercise of such remedies, shall be applied by the Collateral Agent in accordance with the terms of the Collateral Agency Agreement.

As used in this Article VI, “proceeds” of Collateral shall mean cash, securities and other property realized in respect of, and distributions in kind of, Collateral, including any property received under any bankruptcy, reorganization or other similar proceeding as to the Borrower or any issuer of, or account debtor or other Borrower on, any of the Collateral.

## **ARTICLE VII**

### **COLLATERAL AGENT MAY PERFORM**

If the Borrower fails to perfect or maintain the Liens created hereunder, or fails to maintain the required priority of the Liens created hereunder, the Collateral Agent may, but shall not be obligated to, (after three (3) Business Days’ notice to the Borrower), unless the Borrower is diligently pursuing a cure for such failure that cannot be obtained more quickly by the Collateral Agent’s performance as specified herein, itself perform, or cause the performance of, such obligations, and the expenses of the Collateral Agent incurred in connection therewith shall be payable by the Borrower.

## **ARTICLE VIII**

### **REINSTATEMENT**

This Agreement and the Lien created hereunder shall automatically be reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Secured Obligations is rescinded or must otherwise be restored by any holder of the Secured Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

## **ARTICLE IX**

### **EXCULPATORY PROVISIONS**

9.01 Exculpation of Collateral Agent. Notwithstanding anything herein to the contrary, the liability of the Collateral Agent shall be limited, and the Collateral Agent shall be entitled to indemnification and other protections as provided in Article VI of the Collateral Agency Agreement, which provisions are incorporated by reference as if set forth in full herein.



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**ARTICLE X**

**MISCELLANEOUS**

**10.01 No Waiver; Remedies Cumulative.** No failure or delay by any Secured Party in exercising any remedy, right, power or privilege under this Agreement or any other Financing Document shall operate as a waiver of that remedy, right, power or privilege, nor shall any single or partial exercise of that remedy, right, power or privilege preclude any other or further exercise of that remedy, right, power or privilege or the exercise of any other remedy, right, power or privilege. The remedies, rights, powers and privileges provided by this Agreement are cumulative and not exclusive of any remedies, rights, powers or privileges provided by the other Financing Documents or by applicable Government Rule.

**10.02 Notices.** All notices, requests and other communications provided for in this Agreement shall be given or made in writing (including by telecopy) and delivered to the intended recipient at the address specified below or, as to any party, at such other address as is designated by that party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopy or personally delivered or, in the case of a mailed notice or notice sent by courier, upon receipt, in each case given or addressed as provided in this Section 10.02.

If to the Borrower:

Sabine Pass LNG, L.P.  
717 Texas Ave.  
Ste 3100  
Houston, TX 77002  
Attn: Don Turkleson

If to the Collateral Agent:

HSBC Bank USA, National Association  
452 Fifth Avenue  
New York, NY 10018  
Attn: Corporate Trust

With a copy to:

DLA Piper Rudnick Gray Cary US LLP  
One Liberty Place  
1650 Market Street, Suite 4900  
Philadelphia, PA 19103  
Attn: Peter Tucci, Esq.

**10.03 Expenses.** The Borrower hereby agrees to reimburse each of the Secured Parties for all reasonable costs and expenses incurred by them (including, without limitation, the fees and expenses of legal counsel) in connection with (a) any Default and any enforcement or collection proceeding resulting therefrom, including, without limitation, all manner of

participation in or other involvement with (i) performance by the Agent of any obligations of the Borrower in respect of the Collateral that the Borrower has failed or refused to perform, (ii) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, or any actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement in respect of any of the Collateral, and for the care of the Collateral and defending or asserting rights and claims of the Agent in respect thereof, by litigation or otherwise, including expenses of insurance, (iii) judicial or regulatory proceedings and (iv) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated) and (b) the enforcement of this Section 10.03, and all such costs and expenses shall be Secured Obligations entitled to the benefits of the collateral security provided pursuant to Article II.

10.04 Amendments, Etc. No provision of this Agreement may be waived, modified or supplemented except by an instrument in writing signed by the Borrower, the Agent and the Collateral Agent. Any modification, supplement or waiver shall be for such period and subject to such conditions as shall be specified in the written instrument effecting the same and shall be binding upon the Borrower and each of the Secured Parties, and any such waiver shall be effective only in the specific instance and for the purpose for which given.

10.05 Successors and Assigns. This Agreement, together with the other Financing Documents, shall be binding upon and inure to the benefit of the Borrower, the Secured Parties, and each of their respective successors and permitted assigns. The Borrower shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Collateral Agent.

10.06 Actions Taken by Collateral Agent All actions taken by the Collateral Agent shall be at the direction of the Agent with the consent of such Lenders as may be required by Section 9.01 or 10.09 of the Credit Agreement, as applicable.

10.07 Survival. Each representation and warranty made, or deemed to be made, in or pursuant to this Agreement shall survive the making or deemed making of that representation and warranty, and no Secured Party shall be deemed to have waived, by reason of making any extension of credit, any Default that may arise by reason of that representation or warranty proving to have been false or misleading, notwithstanding that such or any other Secured Party may have had notice or knowledge or reason to believe that such representation or warranty was false or misleading at the time that extension of credit was made.

10.08 Agreements Superseded. This Agreement, together with the other Financing Documents, constitutes the entire agreement and understanding among the parties to this Agreement with respect to the matters covered by this Agreement and supersedes any and all prior agreements and understandings, written or oral, with respect to such matters.

10.09 Severability. Any provision of this Agreement that is held to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of this Agreement, and the invalidity, illegality or

unenforceability of a particular provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Captions. The table of contents, captions and section headings appearing in this Agreement are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

10.11 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signatures are physically attached to the same counterpart. Delivery of an executed counterpart of a signature page to this Agreement by hand or by telecopy shall be effective as the delivery of a fully executed counterpart of this Agreement.

10.12 Governing Law; Submission to Jurisdiction. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN SUCH STATE. THE BORROWER HEREBY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT AND STATE COURT SITTING IN NEW YORK CITY FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THE BORROWER IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE GOVERNMENT RULE, ANY OBJECTION THAT IT MAY NOW OR IN THE FUTURE 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.**

10.13 Certain Matters Relating to Collateral Located in the State of Louisiana With respect to Collateral which is located in the state of Louisiana, notwithstanding anything contained herein to the contrary:

(a) Acceleration Upon Default, Executory Process; Confession of Judgment When an Event of Default has occurred and is continuing, the Collateral Agent may, at its option, declare the Secured Obligations at once due and payable without further demand, notice or putting the Borrower in default, and cause all and singular the Collateral to be seized and sold under executory or other legal process, issued by any court of competent jurisdiction, with or without appraisalment, at the option of the Collateral Agent, to the highest bidder, for cash.

(b) Confession of Judgment. For purposes of foreclosure by executory process, the Borrower hereby confesses judgment in favor of the Collateral Agent for the full amount of the Secured Obligations, including principal and interest, together with all attorney's fees and costs, and any and all monies that may become due to the Collateral Agent under the terms hereof or secured hereby.

(c) Borrower's Waiver of Rights. To the fullest extent permitted by law, the Borrower hereby waives:

(i) the benefit of appraisal provided for in Articles 2332, 2336, 2723 and 2724 of the Louisiana Code of Civil Procedure, to the extent applicable, and all other laws conferring the same;

(ii) the demand and three (3) days notice of demand as provided in Articles 2639 and 2721 of the Louisiana Code of Civil Procedure;

(iii) the notice of seizure provided by Articles 2293 of the Louisiana Code of Civil Procedure; and

(iv) the three (3) days delay provided for in Articles 2331 and 2722 of the Louisiana Code of Civil Procedure.

(d) Special Appointment of Collateral Agent as Agent. In addition to all of the rights and remedies of the Collateral Agent hereunder, so long as this Agreement remains in effect, the Collateral Agent is, pursuant to Louisiana R.S. 9:5388, hereby appointed by the Borrower as agent and attorney-in-fact of the Borrower, coupled with an interest, to carry out and enforce all or any specified portion of the incorporeal rights comprising part of the Collateral.

(e) Civil Law Terminology. All references in this Agreement to "real property", "personal property", "easements" and "receiver" shall mean and include "immovable property", "movable property", "servitudes" and "keeper" respectively.

**10.14 Waiver of Jury Trial. THE BORROWER AND THE COLLATERAL AGENT (ON BEHALF OF ITSELF AND EACH OTHER SECURED PARTY) HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE GOVERNMENT RULE, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.**

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the day and year first above written.

SABINE PASS LNG, L.P.

By: Sabine Pass LNG – G.P., Inc.  
its General Partner

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT J  
TO CREDIT AGREEMENT

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HSBC BANK USA, NATIONAL ASSOCIATION, as Collateral  
Agent

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT J  
TO CREDIT AGREEMENT

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SOCIÉTÉ GÉNÉRALE,  
as Agent

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT J  
TO CREDIT AGREEMENT

Project Documents

1. Material Project Documents.
2. Other Project Documents.
3. Non-Material Project Documents.



UCC Filing Offices

1. Secretary of State of the State of Delaware
2. Clerk of Court of Cameron Parish, Louisiana, for inclusion in the Louisiana Secretary of State Master UCC Index

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EXHIBIT J  
TO CREDIT AGREEMENT

FORM OF COLLATERAL AGENCY AGREEMENT

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EXHIBIT K  
TO CREDIT AGREEMENT

FORM OF CONSENT AND AGREEMENT

THIS CONSENT AND AGREEMENT (this "Consent and Agreement"), dated as of [ ], is made among [ ] (the "Obligor"), SABINE PASS LNG, L.P., a Delaware limited partnership (the "Assignor"), and HSBC Bank USA, National Association, in its capacity as collateral agent (in such capacity, together with its successors in such capacity, the "Collateral Agent").

The Assignor owns and is constructing a LNG receiving terminal in Cameron Parish, Louisiana, featuring a regasification design capacity of 4.0 billion cubic feet per day, two docks and five storage tanks (the "Project"). The Obligor and the Assignor have entered into the [ ] Agreement dated as of [ ], (the "Assigned Agreement"). The Assignor, the Collateral Agent and certain other financial institutions are party to the Credit Agreement dated as of February 25, 2005 as amended, restated, supplemented or novated from time to time (the "Credit Agreement") pursuant to which the financial institutions party thereto agreed to finance certain costs of developing, constructing and operating the Project. The Assignor and the Collateral Agent have entered into certain security documents in connection with the execution of the Credit Agreement (the "Security Documents"), pursuant to which the Assignor has pledged and assigned to the Collateral Agent a lien on, and a security interest in, all of the Assignor's right, title and interest in the Assigned Agreement.

1. Consent and Agreement.

- (a) The Obligor hereby acknowledges and irrevocably consents to the assignment by the Assignor of all its right, title and interest in the Assigned Agreement to the Collateral Agent as collateral security for the payment and performance by the Assignor of its obligations under the Credit Agreement.
- (b) The Obligor acknowledges the right of the Collateral Agent, upon the occurrence and during the continuance of an event of default under the Credit Agreement, to exercise and enforce all rights of the Assignor under the Assigned Agreement in accordance with the terms of the Assigned Agreement.
- (c) Upon the exercise by the Collateral Agent of any of the remedies set forth in the Security Documents, the Collateral Agent may assign its rights and interests and the rights and interests of the Assignor under the Assigned Agreement to any Person that (i) is a purchaser or transferee of the Assignor or the Project and (ii) assumes the obligations of the Assignor under the Assigned Agreement.
- (d) The Obligor acknowledges and agrees, notwithstanding anything to the contrary contained in the Assigned Agreement, that neither of the following events shall constitute a default by the Assignor under the Assigned Agreement or require the consent of the Obligor: (i) the operation of the Project by or on behalf of the Collateral Agent following the occurrence and continuance of an event of default under the Credit Agreement and the related documents or (ii) foreclosure or any other enforcement of the Security Documents by the

Collateral Agent; provided, that the actions taken pursuant to clauses (i) or (ii) otherwise comply with applicable law.

(e) Notwithstanding anything to the contrary in the Assigned Agreement, the Obligor shall not, without the prior written consent of the Collateral Agent, cancel, suspend performance under or terminate the Assigned Agreement unless the Obligor shall have delivered to the Collateral Agent written notice stating that it is entitled to do so under the Assigned Agreement and that it intends to exercise such right on a date not less than 90 days after the date of such notice. The Obligor's notice shall specify the nature of the default giving rise to its right to cancel, suspend performance under or terminate the Assigned Agreement and the Obligor shall permit either the Assignor or the Collateral Agent or both to cure such default. Nothing herein shall require the Collateral Agent to cure any default of the Assignor under the Assigned Agreement or to perform any act, duty or obligation of the Assignor under the Assigned Agreement, but shall only give it the option to do so.

(f) In the event the Collateral Agent or its designee or assignee succeeds to the Assignor's interest under the Assigned Agreement, whether by foreclosure or otherwise, the Collateral Agent or such designee or assignee shall assume liability for all of the Assignor's obligations under the Assigned Agreement; provided, however, that such liability shall not include any liability for claims of the Obligor against the Assignor arising from the Assignor's failure to perform during the period prior to the Collateral Agent's or such designee's or assignee's succession to the Assignor's interest in and under the Assigned Agreement. Except as set forth in the immediately preceding sentence, neither the Collateral Agent, its designee or assignee nor any other party secured by the Security Documents shall be liable for the performance or observance of any of the obligations or duties of the Assignor under the Assigned Agreement, including the performance of any cure of default permitted pursuant to paragraph (e) above, and the assignment of the Assigned Agreement by the Assignor to the Collateral Agent or its designee or assignee pursuant to the Security Documents shall not give rise to any duties or obligations owing to the Obligor on the part of any of the parties secured by the Security Documents.

(g) In the event that (i) the Assigned Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding involving the Assignor or (ii) the Assigned Agreement is terminated as a result of any bankruptcy or insolvency proceeding involving the Assignor, and if within 90 days after such rejection or termination, the Collateral Agent or its designee or assignee shall so request and shall certify in writing to the Obligor that it intends to perform the obligations of the Assignor as and to the extent required under the Assigned Agreement, the Obligor shall execute and deliver to the Collateral Agent or such designee or assignee a new agreement ("new Assigned Agreement"), (A) pursuant to which new Assigned Agreement the Obligor shall agree to perform the obligations contemplated to be performed by the Obligor under the original Assigned Agreement and the Collateral Agent or such designee or assignee shall agree to perform the obligations contemplated to be performed by the Assignor under the original Assigned Agreement, (B) which shall be for the balance of the remaining term under the original Assigned Agreement before giving effect to such rejection or termination and (C) which 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 Assignor prior to such rejection or termination). References in this Consent and

Agreement to an "Assigned Agreement" shall be deemed also to refer to the new Assigned Agreement.

(h) The Obligor 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 Obligor, concurrently with the delivery thereof to the Assignor, a copy of each material notice, request or demand (other than such notices delivered in the ordinary course of business) given by the Obligor to the Assignor pursuant to the Assigned Agreement.

(i) 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, liability in respect of any and all obligations of any such Person under the Assigned Agreement shall be limited to such Person's interest in the Project (and no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto).

**2. Representations and Warranties.** The Obligor hereby represents and warrants to the Collateral Agent that:

(a) The Obligor is a corporation duly organized, validly existing and in good standing under the laws of the state of its jurisdiction of organization and is duly qualified to do business and is in good standing in all jurisdictions where necessary in light of the business it conducts and the property it owns and intends to conduct and own.

(b) The Obligor has the full corporate power, authority and right to execute, deliver and perform its obligations hereunder and under the Assigned Agreement. The execution, delivery and performance by the Obligor of this Consent and Agreement and the Assigned Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate and shareholder action on the part of the Obligor. This Consent and Agreement and the Assigned Agreement have been duly executed and delivered by the Obligor and constitute the legal, valid and binding obligations of the Obligor enforceable against the Obligor in accordance with their respective terms, except as the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) the application of general principles of equity or law (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) The execution, delivery and performance by the Obligor of this Consent and Agreement and the Assigned Agreement do not and will not (i) require any consent or approval of the board of directors of the Obligor or any shareholder of the Obligor which has not been obtained, and each such consent or approval that has been obtained is in full force and effect, (ii) violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award having applicability to the Obligor or any provision of the certificate of incorporation or by-laws of the Obligor, (iii) conflict with, result in a breach of or constitute a default under any provision of the certificate of

incorporation, by-laws or other organic documents or any resolution of the board of directors or any other material agreement, lease or instrument to which the Obligor is a party or by which the Obligor or its properties and assets are bound or affected or (iv) result in, or require the creation or imposition of, any lien upon or with respect to any of the assets or properties of the Obligor now owned or hereafter acquired.

(d) This Consent and Agreement (assuming the due authorization, execution and delivery by, and binding effect on, the Collateral Agent and the Assignor) and the Assigned Agreement (assuming the due authorization, execution and delivery by, and the binding effect on, the Assignor) are in full force and effect.

(e) There is no action, suit or proceeding at law or in equity by or before any Governmental Authority, arbitral tribunal or other body now pending or to the actual knowledge of the Obligor, threatened against the Obligor or any of its properties, rights or assets that could reasonably be expected to (i) have a material adverse effect on the Obligor or its ability to perform its obligations hereunder or under the Assigned Agreement or (ii) question the validity, binding effect or enforceability hereof or of the Assigned Agreement or any action taken or to be taken pursuant hereto or thereto or any of the transactions contemplated hereby or thereby.

(f) The Obligor is not, to its actual knowledge, in default under any covenant or obligation hereunder or under the Assigned Agreement and to its actual knowledge no such default has occurred prior to the date hereof. To the actual knowledge of the Obligor, the Assignor is not in default under any covenant or obligation of the Assigned Agreement and no such default has occurred prior to the date hereof. To the actual knowledge of the Obligor, after giving effect to the assignment by the Assignor to the Collateral Agent of the Assigned Agreement pursuant to the Security Documents, and after giving effect to the acknowledgment of and consent to such assignment by the Obligor (as constituted by this Consent and Agreement), there exists no event or condition that would constitute a default, or that would, with the giving of notice or lapse of time or both, constitute a default under the Assigned Agreement.

(g) This Consent and Agreement and the Assigned Agreement, and any other agreement specifically contemplated herein or therein, constitute and include all agreements entered into by the Obligor and Assignor relating to, and required for the consummation of, the transactions contemplated by this Consent and Agreement and the Assigned Agreement.

3. Arrangements Regarding Payments. All payments to be made by the Obligor to the Assignor under the Assigned Agreement shall be made in lawful money of the United States of America in immediately available funds, directly to the following account: [ ] (or to such other person or entity and at such other address as the Collateral Agent may from time to time specify in writing to the Obligor). The Assignor hereby authorizes and directs the Obligor to make such payments as aforesaid and agrees that such payments shall satisfy the Obligor's obligations to pay such amounts to the Assignor under the Assigned Agreements.

4. Collateral Agent. The Collateral Agent represents and warrants to the Obligor 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 the Collateral Agent herein.

5. Miscellaneous.

(a) This Consent and Agreement shall be binding upon the successors and assigns of the Obligor.

(b) No amendment or waiver of any provisions of this Consent and Agreement or consent to any departure by the Obligor from any provisions of this Consent and Agreement shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(c) No failure on the part of the Collateral agent or any of its agents or on the part of the Obligor 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.

**(d) THIS CONSENT AND AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK. EACH OF THE PARTIES 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 PARTY HERETO 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.**

**(e) EACH OF THE PARTIES 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 TRANSACTIONS CONTEMPLATED HEREBY.**

(f) This Consent and Agreement may be executed in one or more counterparts with the same effect as if such signatures were upon the same instrument.

(g) 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 shall be liberally construed in favor of the Collateral Agent and the other Secured Parties in order to carry out the intentions of the parties hereto as

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nearly as may be possible 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.

(h) Headings appearing herein are used solely for convenience and are not intended to affect the interpretation of any provision of this Consent and Agreement.

(i) This Consent and Agreement shall terminate upon the indefeasible payment in full of all amounts owed under the Credit Agreement or upon the assignment of the Assigned Agreement by the Obligor in accordance with the terms of the Assigned Agreement and this Consent and Agreement if the assignee executes and delivers to the Collateral Agent a consent and agreement substantially similar to this Consent and Agreement and in a form acceptable to the Collateral Agent.

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EXHIBIT L  
TO CREDIT AGREEMENT



IN WITNESS WHEREOF, each of the undersigned by its officer duly authorized has caused this Consent and Agreement to be duly executed and delivered as of the first date written above.

[OBLIGOR]

By:

\_\_\_\_\_  
Name:

Title:

Address for Notices:

SABINE PASS LNG, L.P.

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

By:

\_\_\_\_\_  
Name:

Title:

Address for Notices:

[\_\_\_\_\_] ,  
as Collateral Agent

By:

\_\_\_\_\_  
Name:

Title:

Address for Notices:

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EXHIBIT L  
TO CREDIT AGREEMENT

PHASE 1 CHANGE ORDER (SECTION 8.20(a)(i)(D))

INTENTIONALLY OMITTED

FORM OF OPINION OF COUNSEL TO THE PHASE 2 CONSTRUCTION CONTRACTORS

[\_\_\_\_], 2006

Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, TX 77002

Société Générale,  
as Administrative Agent  
1221 Avenue of the Americas  
New York, NY 10020

Each of the Secured Parties (as defined in the Credit Agreement referred to below)

Ladies and Gentlemen:

We have acted as special counsel for \_\_\_\_\_, a \_\_\_\_\_[corporation][limited liability company] ("Contractor"), in connection with the execution and delivery of [(i)] that \_\_\_\_\_ Contract dated as of [\_\_\_\_\_, 2006] (the "Contract") between Contractor and Sabine Pass LNG, L.P., a Delaware limited partnership ("Owner"), (ii) that Consent and Agreement, dated as of [\_\_\_\_\_, 2006] (the "Consent") between Contractor, Owner and HSBC Bank USA, National Association, as Collateral Agent [and (iii) that Guaranty, dated as of [\_\_\_\_\_, 2006] (the "Guaranty"), by \_\_\_\_\_, a \_\_\_\_\_[corporation][limited liability company], as guarantor ("Guarantor"), in favor of Owner, in connection with the Contract]. The Contract, Consent [and Guaranty] are herein referred to as the "Opinion Documents" and Contractor [and Guarantor] [is] [are] herein referred to as the "Obligor[s]."

In connection with the opinions expressed in this letter, we have reviewed such documents and given consideration to such matters of law and fact as we have deemed appropriate, in our professional judgment, to render the opinions expressed in this letter. The documents so reviewed have included the originals or copies, certified or otherwise identified to our satisfaction, of certain corporate records and documents of Obligor[s], and we have relied on the accuracy and completeness of all factual matters set forth in such corporate records, documents, and certificates, as well as the representations and warranties as to factual matters set forth in the Opinion Documents.

For purposes of the opinions expressed herein, we have assumed (i) the genuineness of all signatures (other than signatures on behalf of Obligor[s]) on all documents submitted to us as

originals, and (ii) the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as copies.

We have further assumed that (i) Owner has all requisite power and authority to enter into and perform its obligations under the Opinion Documents, (ii) each of the Opinion Documents has been duly authorized, executed and delivered by the parties thereto other than the Obligor[s], and constitutes the legal, valid and binding obligation of the parties thereto other than the Obligor[s].

Based on the foregoing, it is our opinion that:

1. Obligor[s] is [are] a [corporation][limited liability company] duly organized, validly existing and in good standing under the laws of the State of [\_\_\_\_], and qualified to do business and in good standing under the laws of the State of Louisiana.
2. [Each] Obligor has the [corporate][limited liability company] power and authority to carry on its business and own its properties and assets, and to execute and deliver and to perform its obligations under, the Opinion Documents to which it is a party.
3. The execution and delivery by [each] Obligor of, and performance by [each] Obligor of its obligations under, the Opinion Documents to which it is a party has been duly authorized by all necessary [corporate][limited liability company] action of [such] Obligor. [Each] Obligor has duly executed and delivered the Opinion Documents to which it is a party.
4. Each of the Opinion Documents to which [each] Obligor is a party constitutes the valid and binding obligation of [such] Obligor, enforceable against [such] Obligor in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent transfer and conveyance, and other similar laws affecting the rights and remedies of creditors generally, and by general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).
5. The execution and delivery by [each] Obligor of the Opinion Documents to which it is a party and the performance by it of its obligations thereunder do not and will not (a) conflict with or result in a violation of any law, rule or regulation applicable to it, (b) conflict with or result in a violation of any provision of its organizational documents, or (c) violate, breach or result in a default under, or result in the imposition of any lien upon any property of such Obligor pursuant to, any existing obligation of or restriction on such Obligor under any other material agreement, instrument or indenture.
6. No authorization, consent or other approval of, or registration, declaration or other filing with, any governmental authority of the United States of America, the State of [\_\_\_\_] or the State of New York, as applicable on the part of [each] Obligor for the execution, delivery and performance by [such] Obligor of the Opinion Documents to which it is a party, other than those routine consents or other approvals required to be

obtained during the ordinary course of the performance of or the of the execution of the work.

7. To our knowledge, there is no action, suit or proceeding pending or threatened against or affecting [any] Obligor before any court, governmental or regulatory authority or arbitrator, which seeks to affect the enforceability of the Opinion Documents to which it is a party or which, if determined adversely to such Obligor, would reasonably be expected to have a material adverse effect on the ability of such Obligor to perform its obligations under the Opinion Documents to which it is a party.

8. A Texas state court of competent jurisdiction or a Federal court of competent jurisdiction sitting in the State of Texas applying Texas conflicts of law principles, if properly presented with the choice of law issue, should honor the choice of Texas law to govern such Opinion Documents which have expressly chosen Texas law. To ensure the legality, validity, enforceability and admissibility into evidence of the Opinion Documents in the courts of the State of [\_\_\_\_\_] or a Federal court sitting in the State of [\_\_\_\_\_] (collectively, the "Courts"), it is not necessary for any reason to register, record, file or notarize the Opinion Documents with any court or other governmental authority in the State of [\_\_\_\_\_]. Each of the Opinion Documents is in a form capable of enforcement in the Courts and all conditions and actions required to be fulfilled and performed to make the Opinion Documents admissible in evidence in the Courts have been fulfilled and performed.

9. In a case properly argued and presented, a [\_\_\_\_\_] court or a Federal court sitting in [\_\_\_\_\_] and applying [\_\_\_\_\_] conflict of law principles, would give effect to the provisions of the Opinion Documents selecting New York law as governing and would apply the substantive laws of the State of New York in construing the Opinion Documents. A final judgment granting or denying recovery of a sum of money (other than a judgment for taxes, fines or other penalties) rendered against [each] Obligor in respect of the Opinion Documents to which it is a party by a foreign court to which such Obligor has submitted, or is otherwise subject to jurisdiction, should be recognized and enforced by the Courts without reexamination of the merits of the case.

This opinion letter is provided to you for your exclusive use solely in connection with the transactions contemplated by the Opinion Documents and may not be relied upon by any other person other than your permitted successors, assigns and your counsel or for any other purpose without our prior written consent. The opinions and confirmation of facts expressed in this letter are strictly limited to the matters stated in this letter as of the date hereof, and no other opinions or confirmations of fact are to be implied or inferred. We undertake no obligation to advise you or any other person or entity of changes of law or fact that occur after the date of this letter, whether or not such change may affect any of the opinions expressed herein.

Very truly yours,

[\_\_\_\_\_]

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EXHIBIT O  
TO CREDIT AGREEMENT

FORM OF OPINION OF SPECIAL REGULATORY COUNSEL TO THE  
BORROWER

July 21, 2006

To each of the Secured Parties (as defined in the  
Credit Agreement referred to below)

File No.: 15323-7

Ladies and Gentlemen:

We have acted as special environmental and state energy regulatory counsel to HSBC Bank USA, National Association, as collateral agent, (the "Collateral Agent") and Société Générale, as agent, (the "Agent") in connection with the transactions contemplated by that certain First Amended and Restated Credit Agreement (the "Credit Agreement") dated as of July 21, 2006 among Sabine Pass LNG, L.P., a Delaware limited partnership (the "Company"), the Collateral Agent, the Agent and the lenders from time to time party thereto. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The scope of this opinion is limited to the federal and state environmental laws ("Environmental Laws") and state laws relating to the regulation of public utilities and of natural gas ("Energy Laws") listed in Exhibit A attached to this opinion. This opinion relates to the Project, as defined herein, but specifically excludes any opinion relating to the Natural Gas Pipeline Facilities, as defined herein, and any related permits or authorizations required in connection with the construction, operation or interconnection of such pipeline system and the transportation of natural gas, including the rates for such transportation. This opinion further excludes any opinion related to the "Well," defined in the Noble Option Agreement.

For purposes of this opinion letter:

1. "Environmental Permit" means any action, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right or license of or from a Government Authority required under the Environmental Laws.
2. "Energy Permit" means any action, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right or license of or from a Government Authority required under the Energy Laws.

3. "Project" means the LNG receiving terminal in Cameron Parish, Louisiana, featuring a regasification design capacity of approximately 2.6 billion cubic feet per day, two docks and three storage tanks with an aggregate capacity of approximately 480,000 cubic meters, currently under construction and owned by the Company, together with an expansion of such facilities to be constructed and owned by Borrower, such expansion to increase the regasification design capacity to an aggregate, together with the original facility, of approximately 4.0 billion cubic feet per day, and add two additional storage tanks providing an aggregate capacity of approximately 320,000 cubic meters, but excluding (a) the Natural Gas Pipeline Facilities or any other pipeline outside the Site, and (b) the "Well" and other "Property" defined in the Noble Option Agreement.
4. "Natural Gas Pipeline Facilities" means Cheniere Sabine Pass Pipeline Company's 16-mile long, 42-inch diameter pipeline from the Project to Johnsons Bayou, Louisiana, more specifically described in Federal Energy Regulatory Commission (FERC) Docket Nos. CP04-38-000, CP04-38-001, CP04-39-000 and CP04-40-000, and the additional pipeline and associated facilities more specifically described in FERC Docket No. CP05-396-000, or as otherwise authorized by FERC pursuant to Section 7(c) of the NGA or any extension or replacement thereof or any other pipeline on the Site requiring authorization from FERC pursuant to Section 7(c) of the NGA.

For the purposes of giving the opinions stated in this letter, we have examined each of the following documents:

- (A) the Credit Agreement;
- (B) the EPC Contract;
- (C) the Management Services Agreement;
- (D) the O&M Agreement;
- (E) the Lease Agreements;
- (F) the Chevron TUA; and
- (G) the Total TUA.

We have also made such examination of law and have examined such other certificates, documents, records and opinions as we have deemed necessary for purposes of this opinion. We have assumed the genuineness of all signatures, the authenticity of all documents provided to us as originals, and the conformity to authentic original documents of all documents provided to us as certified, conformed, photostatic or electronic copies. We have also assumed that the statements and factual conclusions therein are true, accurate and complete, and that any representations (oral or written) made to us by the Company, Government Authorities or their representatives are true. As to questions of fact material to the following opinions, when relevant facts were not



independently established, we have relied upon representations of the Company or its designees, and public officials.

For purposes of this opinion, we have assumed that all parties have all requisite power and authority and have taken all necessary action to properly exercise their power and authority with regard to the execution and delivery of all submittals related to the application for, maintenance of and compliance with the Environmental Permits to which they are parties.

For purposes of this opinion, we have assumed that the Government Authorities having responsibility for processing and/or issuing the Environmental Permits and handling other similar or related requirements applicable to the Company or the Project have acted within the scope of their authority and performed their legal duties and obligations, including without limitation the processing and issuance of Environmental Permits for the Project and the provision of legal notices when required.

For purposes of this opinion, we have further assumed that the Company will site, construct and operate the Project in accordance with its application filed in FERC Docket No. CP04-47-000 and any relevant FERC orders issued therefrom.

Based upon the foregoing, and subject to the qualifications set forth below, we are of the opinion that:

1. There are no Environmental Permits required to be obtained by the Company, the Operator or the Manager for the Project other than the Environmental Permits obtained as described in Exhibit B and Environmental Permits to be obtained as described in Exhibit C attached hereto. Exhibits B and C list all Environmental Permits required under the Environmental Laws to enable the Company to site, own, develop and construct, and with regards to the Operator and Manager, to operate and maintain, the Project. Except to the extent qualified or limited expressly herein or in Exhibit B or C, each Environmental Permit identified in Exhibit B has been issued or assigned to the Company, the Operator or the Manager, and is in full force and effect. Based exclusively on the certification identified in Exhibit D, none of the permits described in Exhibit C, which are still subject to appeal, have been administratively or judicially appealed by any party.
2. There are no Energy Permits required under the Energy Laws to be obtained by the Company to site, own, develop, and construct, and with regards to the Operator and Manager, to operate and maintain, the Project.
3. The Company, solely as a result of the siting, owning, developing and constructing of the Project, and/or the Operator and Manager, solely as a result of the operation and maintenance of the Project, or the entering into or performance under the Project Documents or any agreements or transactions contemplated by the Project Documents, either will not be deemed subject to regulation, or will be exempt from regulation, under the Energy Laws.

The opinions set forth above are subject to the following qualifications:

(a) We advise you that the Company has represented to us that it is in compliance with the various conditions and limitations in the Environmental Permits. The Company must continue to comply with the Environmental Permits in order to maintain those permits. We are not expressing any opinion as to the present environmental condition of the Site, the effect, if any, of existing conditions at the Site on the operation of the Project or the Project's compliance with applicable federal, state or local environmental laws, rules or regulations. We are not aware of contamination at the Site that would affect the issuance or maintenance of Environmental Permits.

(b) Although we reviewed certain Environmental Permits and regulatory correspondence in the Company's files, we did not conduct an environmental audit or assessment of the Site or a complete review of Government Authority files, and we expressly exclude the following: (1) except to the extent such facts may otherwise be known to us, any facts or circumstances that have not been disclosed to us by or on behalf of the Company or its representatives; (2) the physical circumstances relating to the siting, construction and operation of the Project that would require a detailed physical inspection; and (3) future deviations, if any, from the site plans or information contained in the applications for Environmental Permits.

(c) We render no opinion as to any license, permit, exemption, consent, waiver, certification or registration required under any law other than an Environmental Law or Energy Law.

(d) We render no opinion as to engineering or technical matters associated with the actual performance of the Project, or as to the quality, quantity or impact of effluent, emissions or waste produced by the Project.

(e) We render no opinion as to the Project's compliance with obligations to make routine or periodic registrations pursuant to federal, state and local toxic and "right-to-know" requirements and workplace safety requirements.

(f) We advise you that the Company has represented to us that the FERC, in Docket CP04-47-000, has approved the application of the Company for authority to site, construct and operate the Project as a Liquefied Natural Gas Import Facility under Section 3(a) of the Natural Gas Act, 15 U.S.C. 717(b)(a) and 18 C.F.R. Parts 153 and 380. However, in the event any party to the Project Documents engages in the sale of natural gas moving by pipeline to local distributing systems for resale, the Louisiana Public Service Commission ("LPSC") may be able to exert jurisdiction over that party, and such party may be classified as a "public utility" under current Energy Laws. Additionally, authorization from the LPSC may be required prior to engaging in such activities.

(g) We render no opinion as to any license, permit, exemption, consent, waiver, certification or registration required due to the siting, construction, operation or interconnection of the Natural Gas Pipeline Facilities or the transportation of natural gas, including rates thereof, over the Natural Gas Pipeline Facilities.

(h) We render no opinion as to any building permits.

We render this opinion only with respect to the Environmental Laws and Energy Laws in effect on the date of this letter, and we disclaim any obligation to advise you of any changes in the circumstances, laws, or events that may occur after this date or to otherwise update this opinion.

This letter is solely for your benefit, and the benefit of any persons who are from time to time lenders under the Credit Agreement, and no other persons shall be entitled to rely upon this letter.

Very truly yours,

Kean, Miller, Hawthorne, D'Armond,  
McCowan & Jarman, L.L.P.

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## EXHIBIT A

### ENVIRONMENTAL LAWS

#### Federal Laws/Regulations

Federal Clean Air Act, as amended, 42 U.S.C.A. § 7401 *et seq.* (including regulations promulgated thereunder)

Federal Water Pollution Control Act, as amended, 33 U.S.C.A. § 1251 *et seq.* (including regulations promulgated thereunder)

Rivers and Harbors Act of 1899, as amended, 33 U.S.C.A. § 403 (including regulations promulgated thereunder)

National Environmental Policy Act, as amended, 42 U.S.C.A. § 4321 *et seq.* (including regulations promulgated thereunder)

Endangered Species Act, as amended, 16 U.S.C.A. § 1531 *et seq.* (including regulations promulgated thereunder)

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C.A. § 9601 *et seq.* (including regulations promulgated thereunder)

Emergency Planning and Community Right-to-Know Act of 1986, as amended, 42 U.S.C.A. § 11001 *et seq.* (including regulations promulgated thereunder)

National Historic Preservation Act, as amended, 16 U.S.C.A. § 470 *et seq.* (including regulations promulgated thereunder)

Oil Pollution Act of 1990, as amended, 33 U.S.C.A. § 2701 *et seq.* (including regulations promulgated thereunder)

Pollution Prevention Act of 1990, as amended, 42 U.S.C.A. § 13101 *et seq.* (including regulations promulgated thereunder)

Safe Drinking Water Act, as amended, 42 U.S.C.A. § 300f *et seq.* (including regulations promulgated thereunder)

Solid Waste Disposal Act, as amended and recodified in the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. § 6944 *et seq.* (including regulations promulgated thereunder)

Toxic Substances Control Act, as amended, 15 U.S.C.A. § 2601 *et seq.* (including regulations promulgated thereunder)

Hazardous Material Transportation Act, as amended, 49 U.S.C.A. § 5101 *et seq.* (including regulations promulgated thereunder)

Natural Gas Pipeline Safety Act, as amended, 49 U.S.C.A. § 60101 *et seq.* (including regulations promulgated thereunder)

Title 14 Code of Federal Regulations, Federal Aviation Administration Regulations (Stack Height Notice)

#### State Laws

Louisiana Environmental Quality Act, La. R.S. 30:2001, *et seq.* (including regulations promulgated thereunder)

**EXHIBIT A (CONT.)**

Local Laws

Cameron Parish Zoning Ordinance

ENERGY LAWS

Article IV, Section 21 of the Louisiana Constitution, Chapters 5 and 9 of Title 45 of the Louisiana Revised Statutes, and the rules and orders in effect and issued by the Louisiana Public Service Commission thereunder

Article IX, Section 2 of the Louisiana Constitution, Chapters 7 of Title 30 of the Louisiana Revised Statutes, and the rules and orders in effect and issued by the Office of Conservation, Department of Natural Resources thereunder

**EXHIBIT B**

**Applicable Permits or Approvals Obtained**

<b>Permit</b>	<b>Issuing Agency(ies)</b>	<b>Date Issued</b>
Section 10/404 Jurisdictional Determination (33 C.F.R. Parts 320-330)	U.S. Army Corps of Engineers, Galveston District (Corps)	December 8, 2003
Section 10/404 Construction Permit No. 23426 (33 C.F.R. Parts 320-330)	Corps	February 11, 2005
Approval for Additional Temporary workspaces	Corps	March 17, 2005
Amendment to USACE Permit No. 23426(01), authorizing placement of dredge material from construction dock.	Corps	August 15, 2005
Amendment to USACE Permit No. 23426, authorizing use of mechanical dredge at berth.	Corps	January 3, 2006
Amendment to USACE Permit No. 23426 (33 C.F.R. Parts 320-330) <b>(Related to Expansion)</b>	Corps	July 19, 2006
Part 70 Operating Permit No. 0560-00214-V0 (LAC 33:III.507)	Louisiana Department of Environmental Quality (LDEQ)	November 24, 2004
Prevention of Significant Deterioration (PSD) Air Permit No. PSD-LA-703 (LAC 33:III.509)	LDEQ	November 24, 2004
Coastal Use Permit/Consistency Determination No. P20040708	La. Department of Natural Resources – Coastal Management Division (LDNR-CMD)	January 7, 2005
Amendment to Permit P20040708 (approving additional temporary workspace)	LDNR-CMD	March, 8, 2005
Mitigation Approval under Permit P20040708	LDNR-CMD	March 10, 2005
Amendment to Permit No. P20040708 <b>(Related to Expansion)</b>	LDNR-CMD	June 2, 2006

**Applicable Permits or Approvals Obtained**

<b>Permit</b>	<b>Issuing Agency(ies)</b>	<b>Date Issued</b>
Notice of Intent, Storm Water General Permit for Construction Activities Greater than 5 Acres (Amendment Exempted by June 12, 2006 Federal Register Rulemaking. See, 71 Fed. Reg. 33,628).	LDEQ	January 28, 2005 (notification provided)
Water Quality Certification (TR 040609-04) (letter)	LDEQ	December 16, 2004
Revision to Water Quality Certification for construction dock (TR 040609-04)	LDEQ	September 7, 2005
Revision to Water Quality Certification for mechanical dredge methodology (TR 040609-04)	LDEQ	December 1, 2005
Water Quality Certification (TR 40609-04/AI119267/CER 20060001) (letter) <b>(Related to Expansion)</b>	LDEQ	March 30, 2006
Notification of Groundwater Certification (letter) <b>(Not Required for Expansion)</b>	LDEQ	July 23, 2004
Final Environmental Impact Statement, FERC Docket No. CP04-47-000	Federal Energy Regulatory Commission (FERC)	November 12, 2004
Order Granting Authority under Section 3 of Natural Gas Act, FERC Docket No. CP04-47-000	FERC	December 21, 2004
Native American Consultation	Addressed by FERC in FEIS	August 7, 2003 August 2, 2004 March 30, 2004
Environmental Assessment, Docket No. CP05-396-000 <b>(Related to Expansion)</b>	FERC	May 5, 2006
Order Granting Authority under Section 3 of Natural Gas Act, FERC Docket No. CP05-396-000 <b>(Related to Expansion)</b>	FERC	June 15, 2006
Native American Consultation <b>(Related to Expansion)</b>	Addressed by FERC in Environmental Assessment	June 20, 2005 July 13, 2005 July 18, 2005 July 19, 2005 July 20, 2005

**Applicable Permits or Approvals Obtained**

<b>Permit</b>	<b>Issuing Agency(ies)</b>	<b>Date Issued</b>
Waterways Suitability Assessment Waterway Suitability Report (33 C.F.R. Part 127)	U.S. Department of Homeland Security (USDHS) U.S. Coast Guard (USCF)	March 7, 2006
Determination re: Impact of Dredged Material Disposal Plan (letter) <b>(Not Required for Expansion)</b>	U.S. Fish & Wildlife Service (USF&W)	October 15, 2004
Threatened or Endangered Species Review and Clearance	USF&W; Louisiana Department of Wildlife and Fisheries (LDWF)	October 15, 2004 August 20, 2003
Threatened or Endangered Species Review and Clearance <b>(Related to Expansion)</b>	USF&W LDWF	June 29, 2005 July 14, 2005
Variance from Restriction related to Warm Water Fisheries Time-of-Year Restriction (letter) <b>(Not Required for Expansion)</b>	LDWF	October 5, 2004
Approval of Aquatic Resources Mitigation Plan	USF&W LDWF	December 21, 2004
Approval of Aquatic Resources Mitigation Plan <b>(Related to Expansion)</b>	USF&W LDWF	Part of 404 Permit
Approval of Final Phase I Cultural Resources Survey (letter) <b>(Not Required for Expansion)</b>	Louisiana Office of Cultural Development, Division of Archaeology	January 12, 2005
Review of Creole Nature Trail View (verbal approval) <b>(Not Required for Expansion)</b>	Louisiana Department of Culture, Recreation and Tourism	March 30, 2004
Historic Preservation Approval	Louisiana Division of Historic Preservation	August 16, 2004



Applicable Permits or Approvals Obtained

Permit	Issuing Agency(ies)	Date Issued
Historic Preservation Approval (Related to Expansion)	Louisiana Division of Historic Preservation	July 6, 2005
Approval of Mitigation and Monitoring Plan (letter) (Not Required for Expansion)	National Marine Fisheries Service	December 28, 2004
Cameron Parish Floodplain Administrator (Police Jury) (Letter of No Objection for Expansion)	Construction Permit/Variance	July 1, 2004 July 18, 2005

**EXHIBIT C**

**Applicable Permits or Approvals to be Obtained**

<b>Permit</b>	<b>Issuing Agency</b>	<b>Note</b>
Notice of Intent to Discharge Storm Water pursuant to Storm Water General Permit for Industrial Activities (Multi-Sector GP No. LAR05N189)	LDEQ	Exempt per LAC 33:IX.2511.A.2
LPDES Sanitary Wastewater Permit	LDEQ	Permit required prior to operation of facility
Hydrostatic Water Discharge Permit	LDEQ	Permit required for tanks prior to operation of facility
Spill Prevention, Control & Countermeasure (SPCC) Plan 40 CFR Part 112; 33 LAC IX.Ch.9	LDEQ	Plan required prior to operation of facility
Modification to Part 70 Operating Permit No. 0560-00214-V0 (LAC 33:III.507) <b>(Related to Expansion)</b>	LDEQ	Permit required prior to construction of facility
Modification to Prevention of Significant Deterioration (PSD) Air Permit No. PSD-LA-703 (LAC 33:III.509) <b>(Related to Expansion)</b>	LDEQ	Permit required prior to construction of facility

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**AMENDED AND RESTATED COLLATERAL AGENCY AGREEMENT**

among

HSBC BANK USA, NATIONAL ASSOCIATION,  
in its capacity as Collateral Agent and Securities Intermediary

SOCIÉTÉ GÉNÉRALE,  
in its capacity as Agent

SABINE PASS LNG, L.P.,  
as Borrower

Dated as of July 21, 2006

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- Form of Withdrawal/Transfer Certificate

- Form of Distribution Certificate

- Form of Secured Party Addition Agreement

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## AGREEMENT

AMENDED AND RESTATED COLLATERAL AGENCY AGREEMENT (the “**Agreement**”), dated as of July 21, 2006 among SABINE PASS LNG, L.P., a Delaware limited partnership (the “**Borrower**”), HSBC BANK USA, NATIONAL ASSOCIATION, in its capacity as Collateral Agent (the “**Collateral Agent**”) and Securities Intermediary (the “**Securities Intermediary**”), and SOCIÉTÉ GÉNÉRALE, in its capacity as Agent (the “**Agent**”).

## RECITALS

A. The Borrower has entered into that certain Amended and Restated Credit Agreement, dated as of July 21, 2006 (as amended, modified and supplemented from time to time, the “**Credit Agreement**”), among the Borrower, the financial institutions from time to time parties thereto (collectively, “**Lenders**”), HSBC Bank USA, National Association, as Collateral Agent, and Société Générale, as Agent, pursuant to which the Lenders have agreed to make certain Loans to the Borrower in the amounts specified and on the terms and subject to the conditions set forth therein.

B. It is a condition precedent to the effectiveness of the Credit Agreement that the parties hereto shall have executed and delivered this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valid consideration, the receipt and adequacy of which is hereby expressly acknowledged, the parties hereby agree as follows:

## ARTICLE I

### DEFINITIONS AND OTHER MATTERS

1.01 **Definitions.** Unless otherwise defined herein, terms defined in Section 1.01 of the Credit Agreement are used herein (including the introductory paragraph and recitals of this Agreement) as defined therein. In addition, for purposes of this Agreement, the following terms shall have the following meanings:

“**Agents**” means, collectively, the Agent and the Collateral Agent.

“**Agreement**” has the meaning assigned to such term in the introductory paragraph hereof.

“**Bechtel Construction Payment Subaccount**” has the meaning assigned to such term in Section 2.02(a)(xiv).

“**Bechtel Payment Instruction**” means an irrevocable written instruction delivered by Bechtel Corporation to the Collateral Agent directing that either: (a) a wire transfer be made or (b) a check be issued, in each case from amounts available in cash and standing to the credit of the Bechtel Construction Payment Subaccount, such written instruction to specify the amount of funds to be transferred and the Person or account to which such funds are to be transferred.

COLLATERAL AGENCY AGREEMENT

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“**Capacity Reservation Fees**” shall have the meaning assigned to such term in the Omnibus Agreements.

“**Collateral Accounts**” means the Collateral Accounts set out in Section 2.02.

“**Committed Available Amounts**” means (a) cash actually deposited into the Insurance Proceeds Account, the Phase 1 Construction Account or the Phase 2 Construction Account, respectively, by any Person or (b) irrevocable commitments to deposit cash into the Insurance Proceeds Account, the Phase 1 Construction Account or the Phase 2 Construction Account, respectively, in the form of cash equity contributions to the Borrower by such a Person.

“**Debt Service Accrual Account**” has the meaning assigned to such term in Section 2.02(a)(vii).

“**Debt Service Reserve Account**” has the meaning assigned to such term in Section 2.02(a)(vi).

“**Depository Collateral**” has the meaning assigned to such term in Section 2.03.

“**Distribution Account**” has the meaning assigned to such term in Section 2.02(a)(ix).

“**Distribution Certificate**” means a certificate substantially in the form of Exhibit B and delivered by the Borrower pursuant to Section 3.02(c)(ii).

“**Executed Withdrawal/Transfer Certificate**” has the meaning assigned to such term in Section 3.02(b).

“**Financial Assets**” has the meaning set forth in Section 2.01(b).

“**Income Tax Reserve Account**” has the meaning assigned to such term in Section 2.02(a)(viii).

“**Insurance Proceeds Account**” has the meaning assigned to such term in Section 2.02(a)(xi).

“**Monthly Transfer Date**” means the 26<sup>th</sup> day of each month or, if such day is not a Business Day, the next succeeding Business Day.

“**Operating Account**” has the meaning assigned to such term in Section 2.02(a)(v).

“**Payment Instruction**” means an irrevocable written instruction delivered by the Borrower to the Collateral Agent directing that either: (a) a wire transfer be made or (b) a check be issued by the Collateral Agent, in each case from amounts available in

cash and standing to the credit of a Collateral Account, such Payment Instruction to specify the amount of funds to be transferred and the Person or account to which such funds are to be transferred, which information and instructions shall be consistent in all material respects with that set out in the Executed Withdrawal/Transfer Certificate which transferred such amounts into such Account.

“**Permitted Distribution**” has the meaning assigned to such term in Section 4.08(b).

“**Phase 1 Construction Account**” has the meaning assigned to such term in Section 2.02(a)(i).

“**Phase 1 Construction Payment Subaccount**” has the meaning assigned to such term in Section 2.02(a)(xii).

“**Phase 1 Punchlist Retention Subaccount**” has the meaning assigned to such term in Section 2.02(a)(iii).

“**Phase 2 Construction Account**” has the meaning assigned to such term in Section 2.02(a)(ii).

“**Phase 2 Construction Payment Subaccount**” has the meaning assigned to such term in Section 2.02(a)(xiii).

“**Phase 2 Punchlist Retention Subaccount**” has the meaning assigned to such term in Section 2.02(a)(iv).

“**Remedies Direction**” means a written notice and instruction to the Collateral Agent from the Agent (acting on the direction of the Supermajority Lenders directing the Agent) to take the actions specified therein with respect to a Trigger Event which has occurred and is continuing.

“**Required Accrual Amount**” means an amount equal to the product of (1) one-sixth (1/6) of the Debt Service in respect of the Secured Obligations payable at the next succeeding Semi-Annual Date or Principal Payment Date (as applicable), multiplied by the number of months since the next preceding Semi-Annual Date or Principal Payment Date, as applicable.

“**Restoration Plan**” has the meaning set forth in Section 4.09(b)(iii).

“**Restoration Work**” has the meaning set forth in Section 4.09(b)(iii).

“**Revenue Account**” has the meaning assigned to such term in Section 2.02(a)(x).

“**Secured Party Addition Agreement**” means an agreement substantially in the form of Exhibit C.



“**Termination Date**” means the date on which the Secured Parties have received final and indefeasible payment in full of all Secured Obligations and all other amounts owing to the Secured Parties under the Financing Documents.

“**Trigger Event**” means any Event of Default under the Credit Agreement which is designated as a “Trigger Event” by the Agent in writing to the Borrower and the Collateral Agent.

“**Trigger Event Date**” has the meaning assigned to such term in Section 3.04(a).

“**Withdrawal Date**” means any Monthly Transfer Date or any other date on which a withdrawal of transfer is to be made from a Collateral Account.

“**Withdrawal/Transfer Certificate**” means a certificate substantially in the form of Exhibit A and delivered by the Borrower pursuant to Section 3.02.

1.02 **Interpretation.**

- (a) Principles of Construction. The principles of construction and interpretation set forth in Sections 1.02 and 1.03 of the Credit Agreement shall apply to this Agreement as if set forth herein, *mutatis mutandis*.
- (b) Withdrawals to Occur on a Business Day. In the event that any withdrawal, transfer or payment to or from any Collateral Account contemplated under this Agreement shall be required to be made on a day that is not a Business Day, such withdrawal, transfer or payment shall be made on the next succeeding Business Day.

- 1.03 **Uniform Commercial Code.** As used herein, the term “UCC” shall mean the Uniform Commercial Code as in effect from time to time in the State of New York. All terms defined in the UCC shall have the respective meanings given to those terms in the UCC, except where the context otherwise requires.

**ARTICLE II**

**THE COLLATERAL AGENT AND THE ESTABLISHMENT OF THE ACCOUNTS**

2.01 **Collateral Agent and the Securities Intermediary.**

- (a) Acceptance of Appointment. (i) The Collateral Agent is hereby appointed to act as Collateral Agent and it hereby agrees to act as Collateral Agent under the express terms of this Agreement. The Collateral Agent is hereby appointed to act as Securities Intermediary and it hereby agrees to act as “securities intermediary” (within the meaning of Section 8-102(14) of the UCC) with respect to the Collateral Accounts and the Financial Assets credited to such Collateral Accounts, and as “bank” (within the meaning of 9-102(a) of the UCC) with respect to the Collateral Accounts and credit balances not constituting Financial Assets credited thereto and to accept all cash, payments, other amounts and

Permitted Investments to be delivered to or held by the Securities Intermediary pursuant to the terms of this Agreement. The Securities Intermediary shall hold and safeguard the Collateral Accounts during the term of this Agreement in accordance with the provisions of this Agreement.

(ii) The Borrower shall not have any rights to withdraw or transfer funds from the Accounts, as third party beneficiary or otherwise, except as permitted by this Depositary Agreement, and to direct the investment of monies held in the Accounts as permitted by Section 3.01

(b) Accounts Maintained as UCC "Securities Accounts". The Collateral Agent and the Securities Intermediary hereby agree that (i) the Securities Intermediary has established, in the name of the Borrower, the Collateral Accounts as set forth in Section 2.02(a), (ii) each such Collateral Account is and will be maintained as a "securities account" (within the meaning of Section 8-501 of the UCC); (iii) the Borrower is the "entitlement holder" (within the meaning of Section 8-102(a)(7) of the UCC) in respect of the "financial assets" (within the meaning of Section 8-102(a)(9) of the UCC, the "Financial Assets") credited to such Collateral Accounts that are "securities accounts"; (iv) all Financial Assets in registered form or payable to or to the order of and credited to any such Collateral Account shall be registered in the name of, payable to or to the order of, or specially endorsed to, the Securities Intermediary or in blank, or credited to another securities account maintained in the name of Securities Intermediary; and (v) in no case will any Financial Asset credited to any such Collateral Account be registered in the name of, payable to or to the order of, or endorsed to, the Borrower except to the extent the foregoing have been subsequently endorsed by the Borrower to Securities Intermediary or in blank. Each item of Property (including a security, security entitlement, investment property, instrument or obligation, share, participation, interest or other property whatsoever) credited to any Collateral Account shall to the fullest extent permitted by law be treated as a Financial Asset. Until the Termination Date, the Collateral Agent shall have "control" (within the meaning of Section 8-106(d)(2) or Section 9-104(a) (as applicable) of the UCC) of the Collateral Accounts and the Borrower's "security entitlements" (within the meaning of Section 8-102(a)(17) of the UCC) with respect to the Financial Assets credited to the Account. All property delivered to the Securities Intermediary pursuant to this Agreement will be promptly credited to the applicable Collateral Account. The Borrower hereby irrevocably directs, and the Securities Intermediary (in its capacity as securities intermediary) hereby agrees, that the Securities Intermediary will comply with all instructions and orders (including entitlement orders within the meaning of Section 8-102(a)(8) of the UCC) regarding each Collateral Account and any Financial Asset therein originated by the Collateral Agent without the further consent of the Borrower or any other Person. In the case of a conflict between any instruction or order originated by the Collateral Agent and any instruction or order originated by the Borrower or any other Person other than a court of competent jurisdiction, the instruction or order originated by the Collateral Agent shall prevail. The Securities Intermediary shall not change the name or account number of any

Collateral Account without the prior written consent of the Collateral Agent and at least five Business Days' prior notice to the Borrower, and shall not change the entitlement holder.

To the extent that the Collateral Accounts are not considered "securities accounts" (within the meaning of Section 8-501(a) of the UCC), the Collateral Accounts shall be deemed to be "deposit accounts" (as defined in Section 9-102(a)(29) of the UCC) to the extent a security interest can be granted and perfected under the UCC in the Collateral Accounts as deposit accounts, which the Borrower shall maintain with the Securities Intermediary acting not as a securities intermediary but as a "bank" (within the meaning of Section 9-102(a)(8) of the UCC). The Securities Intermediary shall not have title to the funds on deposit in the Collateral Accounts, and shall credit the Collateral Accounts with all receipts of interest, dividends and other income received on the Property held in the Collateral Accounts. The Securities Intermediary shall administer and manage the Collateral Accounts in strict compliance with all the terms applicable to the Collateral Accounts pursuant to this Agreement, and shall be subject to and comply with all the obligations that the Securities Intermediary owes to the Collateral Agent with respect to the Collateral Accounts, including all subordination obligations, pursuant to the terms of this Agreement. The Securities Intermediary hereby agrees to comply with any and all instructions originated by the Collateral Agent directing disposition of funds and all other Property in the Collateral Accounts without any further consent of the Borrower.

- (c) Jurisdiction of Depositary. The Borrower, the Collateral Agent and the Securities Intermediary agree that, for purposes of the UCC, notwithstanding anything to the contrary contained in any other agreement relating to the establishment and operation of the Collateral Accounts, the jurisdiction of the Securities Intermediary (in its capacity as the securities intermediary and bank) is the State of New York and the laws of the State of New York govern the establishment and operation of the Collateral Accounts.
- (d) Degree of Care; Liens. The Securities Intermediary shall exercise the same degree of care in administering the funds held in the Collateral Accounts and the investments purchased with such funds in accordance with the terms of this Agreement as the Securities Intermediary exercises in the ordinary course of its day-to-day business in administering other funds and investments for its own account and as required by applicable law. The Securities Intermediary is not party to and shall not execute and deliver, or otherwise become bound by, any agreement under which the Securities Intermediary agrees with any Person other than the Collateral Agent to comply with entitlement orders or instructions originated by such Person relating to any of the Collateral Accounts or the security entitlements that are the subject of this Agreement. The Securities Intermediary shall not grant any Lien on any Financial Asset and shall, if any such lien, pledge or security interest shall nevertheless be created, cause the prompt release or discharge of the same.

- (e) Subordination of Lien; Waiver of Set-Off. In the event that the Securities Intermediary has or subsequently obtains by agreement, operation of law or otherwise a Lien in any Collateral Account or in any Depositary Collateral, the Securities Intermediary agrees that such Lien shall (except to the extent provided in the last sentence of this Section 2.01(e)) be subordinate to the Lien of the Collateral Agent. The financial assets standing to the credit of the Collateral Accounts will not be subject to deduction, set-off, banker's lien, or any other right in favor of any Person other than the Collateral Agent (except to the extent of returned items and chargebacks either for uncollected checks or other items of payment and transfers previously credited to one or more of the Collateral Accounts, and the Borrower and the Collateral Agent hereby authorize the Securities Intermediary to debit the Account for such amounts).
- (f) No Other Agreements. None of the Securities Intermediary, the Collateral Agent and the Borrower have entered or will enter into any agreement with respect to any Collateral Account or in any Depositary Collateral, other than this Agreement and the other Financing Documents.
- (g) Notice of Adverse Claims. The Securities Intermediary hereby represents that, except for the claims and interests of the Collateral Agent and the Borrower in each of the Collateral Accounts, the Securities Intermediary, (i) as of the Effective Date, has no actual knowledge of, and has received no written notice of, and (ii) as of each date on which any Collateral Account is established pursuant to this Agreement, has received no notice of, any claim to, or interest in, any Collateral Account or in any other Depositary Collateral. If any Person asserts any Lien (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against any Collateral Account or in any other Depositary Collateral, the Securities Intermediary, upon obtaining written notice thereof, will promptly notify the Collateral Agent and Borrower thereof.
- (h) Rights and Powers of the Collateral Agent. The rights and powers granted to the Collateral Agent by the Secured Parties have been granted in order to, among other things, perfect their Lien in the Collateral Accounts and the other Depositary Collateral and to otherwise act as their agent with respect to the matters contemplated hereby.

2.02 **The Collateral Accounts.**

- (a) Establishment of Collateral Accounts. As of the Effective Date, the Collateral Agent has established the following special, segregated and irrevocable collateral accounts at its offices located in New York City bearing the names and account numbers identified in Schedule I (such accounts, collectively, the "**Collateral Accounts**") (each such Collateral Account being a securities account) each of which shall be maintained at all times by the Collateral Agent until the

termination of this Agreement in accordance with Section 7.13 (unless this Agreement otherwise expressly contemplates closure of such Collateral Account prior to the date of the termination of this Agreement):

- (i) the Phase 1 Construction Account (the “**Phase 1 Construction Account**”);
  - (ii) the Phase 2 Construction Account (the “**Phase 2 Construction Account**”);
  - (iii) the Phase 1 Punchlist Retention Subaccount (the “**Phase 1 Punchlist Retention Subaccount**”), a sub-account of the Phase 1 Construction Account;
  - (iv) the Phase 2 Punchlist Retention Subaccount (the “**Phase 2 Punchlist Retention Subaccount**”), a sub-account of the Phase 2 Construction Account;
  - (v) the Operating Account (the “**Operating Account**”);
  - (vi) the Debt Service Reserve Account (the “**Debt Service Reserve Account**”);
  - (vii) the Debt Service Accrual Account (the “**Debt Service Accrual Account**”);
  - (viii) the Income Tax Reserve Account (the “**Income Tax Reserve Account**”);
  - (ix) the Distribution Account (the “**Distribution Account**”);
  - (x) the Revenue Account (the “**Revenue Account**”);
  - (xi) the Insurance Proceeds Account (the “**Insurance Proceeds Account**”);
  - (xii) the Phase 1 Construction Payment Subaccount (the “**Phase 1 Construction Payment Subaccount**”), a sub-account of the Phase 1 Construction Account;
  - (xiii) the Phase 2 Construction Payment Subaccount (the “**Phase 2 Construction Payment Subaccount**”), a sub-account of the Phase 2 Construction Account;  
and
  - (xiv) the Bechtel Construction Payment Subaccount (the “**Bechtel Construction Payment Subaccount**”), a sub-account of the Phase 2 Construction Account.
- (b) Account Names and Numbers. The names and account numbers of the Collateral Accounts established hereunder on or prior to the Effective Date are set out on

Schedule I. The Collateral Agent shall advise the Agent and the Borrower in writing of the account name and number of any Collateral Account established hereunder by the Collateral Agent and the Borrower, if any, after the Effective Date.

- (c) No Other Accounts. The Borrower shall not open or maintain or cause to be opened or maintained with any bank or other financial institution any deposit, savings or other account other than the Collateral Accounts and any other accounts expressly permitted by the Financing Documents or otherwise established with the consent of the Collateral Agent.
- (d) Collateral Accounts Constitute Collateral.
  - (i) Each Collateral Account and all amounts from time to time held in such Collateral Account shall be subject to the Lien of the Collateral Agent for the benefit of the Secured Parties.
  - (ii) Each Collateral Account and all amounts from time to time held in such Collateral Account shall be held in the custody of, and maintained by the Collateral Agent for the purposes and on the express terms set out in this Agreement. All such amounts shall constitute a part of the Depository Collateral and shall not constitute payment of any Secured Obligations or any other obligations of the Borrower until expressly applied thereto in accordance with the provisions of this Agreement or the Credit Agreement.
  - (e) Standing Instructions. The Borrower and the Agent hereby irrevocably instruct and authorize the Collateral Agent to deposit funds (promptly upon receipt thereof) into, and transfer and withdraw funds from, the Collateral Accounts in accordance with the terms of this Agreement and the other Financing Documents.

- 2.03 Grant of Lien on Collateral Accounts. As collateral security for the prompt and complete payment and performance when due of the Secured Obligations, the Borrower has, pursuant to the Security Agreement, assigned, granted and pledged to the Collateral Agent on behalf of and for the benefit of the Secured Parties, a security interest in (a) each Collateral Account and (b) all cash, investments, investment property, securities or other property at any time on deposit in or credited to any Collateral Account, including all income or gain earned thereon and any proceeds thereof (the “**Depository Collateral**”).

### ARTICLE III

#### PROVISIONS APPLICABLE TO COLLATERAL ACCOUNTS

3.01 Permitted Investments.

- (a) Permitted Investments. Pending the application of funds in accordance with Articles III and IV, funds held in any Collateral Account shall be invested and

reinvested by the Collateral Agent upon written direction of the Borrower (which may be in the form of a standing instruction) only in Permitted Investments, and with respect to those amounts next anticipated to be transferred or withdrawn, having a scheduled maturity no later than such next anticipated cash withdrawal or transfer from such Collateral Account; *provided, however*, that: (i) upon the receipt by the Borrower of notice of a Trigger Event delivered by the Agent pursuant to Section 3.04 and unless otherwise directed therein, or (ii) in the event of any failure by the Borrower to so direct the Collateral Agent in writing on or prior to the day on which any funds are (A) received by the Collateral Agent or (B) transferred between Collateral Accounts in accordance with this Agreement as to the investment of such funds, such investments and reinvestments shall be made by the Collateral Agent in Permitted Investments of the type referred to in clause (f) of the definition of “**Permitted Investments**”. All funds in a Collateral Account that are invested pursuant to this Section 3.01(a) shall be deemed to be held in such Collateral Account for purposes of this Agreement and the other Financing Documents and shall constitute part of the Collateral. The Borrower shall bear all risk of loss of capital from investments in Permitted Investments.

(b) Liability of Collateral Agent.

- (i) Other than with respect to Permitted Investments required to be invested by the Collateral Agent in accordance with the proviso in Section 3.01(a), the Collateral Agent shall not have any duty to determine whether any investment or reinvestment of monies in any Collateral Account satisfies the criteria set out in the definition of “Permitted Investment”.
- (ii) The Collateral Agent shall not be liable for any loss resulting from any investment in any Permitted Investment or the sale, disposition, redemption or liquidation of such investment or by reason of the fact that the proceeds realized in respect of such sale, disposition, redemption or liquidation were less than that which might otherwise have been obtained.

(c) Liquidation to Make Disbursements. If and when cash is required for the making of any transfer, disbursement or withdrawal in accordance with Articles III and IV, the Borrower shall cause Permitted Investments to be sold or otherwise liquidated into cash (without regard to maturity) as and to the extent necessary in order to make such transfers, disbursements or withdrawals required pursuant to Articles III and IV by giving written notice of such sale or liquidation to the Collateral Agent. In the event any such investments are redeemed prior to the maturity thereof, the Collateral Agent shall not be liable for any loss or penalties relating thereto.

(d) Income from Investments. The proceeds from the investment of monies in any Collateral Account in Permitted Investments shall be deposited by the Collateral Agent into the Revenue Account on or before the second Business Day following the month in which such interest, gain or other amount is earned and received; *provided* that for the avoidance of doubt, such proceeds shall consist of interest,

gain and other amounts received in respect of an investment of principal and not the principal itself. Any interest, gain or other amount of income earned on Permitted Investments shall be for the account of the Borrower for income tax purposes.

3.02 **Withdrawal and Transfer Procedure.**

- (a) **Maintenance of Funds in Accounts; Withdrawals.** Until withdrawn or transferred pursuant to and in accordance with this Agreement, any amounts deposited into a Collateral Account (other than income from investments transferred to the Revenue Account pursuant to Section 3.01(d)) shall be held in such Collateral Account. All withdrawals and transfers from any Collateral Account shall be made in accordance with the provisions of Articles III and IV.
- (b) **Withdrawal/Transfer Certificate.** Except as otherwise expressly provided herein, the Borrower shall not be entitled to request withdrawals or transfers of monies from any Collateral Account without having provided a Withdrawal/Transfer Certificate authorizing such withdrawal and/or transfer. Withdrawals or transfers from any Collateral Account (except as otherwise expressly provided herein) shall be made by the Collateral Agent following receipt of (and in accordance with) a Withdrawal/Transfer Certificate signed by the Borrower and countersigned by the Agent (an "**Executed Withdrawal/Transfer Certificate**"). Each Withdrawal/Transfer Certificate shall request withdrawals and transfers to and from Collateral Accounts in the amounts, at the times and in the order of priority set out in Article IV.
- (c) **Delivery to Agent and Form of Withdrawal/Transfer Certificate.** On the Effective Date and no later than five Business Days prior to each Monthly Transfer Date, at least five Business Days prior to the Final Funding Date, the Borrower shall deliver for purposes of any withdrawal or transfer on the next succeeding Withdrawal Date (unless no withdrawal or transfer is anticipated in respect of such Withdrawal Date):
  - (i) to each Agent a Withdrawal/Transfer Certificate signed by an Authorized Officer of the Borrower specifying:
    - (A) each Collateral Account from which a withdrawal or transfer is requested and, in the case of any transfer, the relevant Collateral Account(s) to which, and/or other Person(s) to whom, such transfer is to be made;
    - (B) the amount requested to be withdrawn or transferred from each such Collateral Account (and the calculation thereof, if required, in accordance with the relevant provisions of Article IV);
    - (C) the relevant Withdrawal Date on which such withdrawal or transfer is to be made;



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- (D) the purpose for which the amount so withdrawn or transferred is to be applied (if not evident from the nature of the payment or identity of the intended payee); and
  - (E) all other information required to be provided in such Withdrawal/Transfer Certificate under, or to evidence compliance with, the relevant provisions of Articles III and IV; and
- (ii) to each Agent, in the event that the applicable Withdrawal/Transfer Certificate shall request any transfers, payments or withdrawals constituting Restricted Payments, a Distribution Certificate.
- (d) Agents' Review of Certificates; Delivery to Collateral Agent
- (i) In the event that, prior to the relevant Withdrawal Date, the Agent shall determine that either or both: (A) any amounts specified in a Withdrawal/Transfer Certificate (or an amended Withdrawal/Transfer Certificate, as applicable) have been incorrectly calculated; and/or (B) such Withdrawal/Transfer Certificate (or an amended Withdrawal/Transfer Certificate, as applicable) is inconsistent with, or otherwise fails to satisfy the requirements of, the provisions of this Agreement and the other Financing Documents, the Agent shall notify the Collateral Agent and the Borrower in writing promptly but in no case later than the third Business Day following the Agent's receipt of such Withdrawal/Transfer Certificate and may either (I) return such Withdrawal/Transfer Certificate (or such amended certificate, as applicable) to the Borrower with its determinations noted thereon; or (II) in consultation with the Borrower, make such corrections as it reasonably deems necessary to satisfy the requirements of this Agreement. In the event that the Agent makes any revisions to a Withdrawal/Transfer Certificate as described above, it shall promptly provide a copy of the same, as so revised, to the Collateral Agent and the Borrower. The Agent and the Borrower will endeavor to agree and complete the final form Withdrawal/Transfer Certificate (or any amended or corrected certificate), and deliver such certificate to the Collateral Agent, no later than the Business Day prior to the Withdrawal Date to which such certificate relates.
  - (ii) The Agent and the Collateral Agent each shall countersign any accepted Withdrawal/Transfer Certificate (or any amended or corrected Withdrawal/Transfer Certificate, as applicable) (which acceptance or counter-signature shall not be unreasonably withheld or delayed), and the Collateral Agent shall implement such Executed Withdrawal/Transfer Certificate (or such amended or corrected certificate, as applicable) in accordance with Section 3.02(e) and the other provisions of this Agreement.

- (iii) Nothing in this Section 3.02(d) shall preclude any Agent from consulting with the Borrower, any Secured Party or any consultant or expert advisor in making its determinations with respect to the accuracy of any Withdrawal/Transfer Certificate (or any amended or corrected Withdrawal/Transfer Certificate, as applicable).
- (e) Implementation of Withdrawal/Transfer Certificate. Except as otherwise provided in this Agreement, following receipt of an Executed Withdrawal/Transfer Certificate, the Collateral Agent shall pay or transfer the amount(s) specified in such Withdrawal/Transfer Certificate by initiating such payment or transfer not later than 11:30 a.m. (New York time) on the Withdrawal Date set out in such Withdrawal/Transfer Certificate for such payment or transfer (or if such certificate is not received by the Collateral Agent at least one Business Day prior to such Withdrawal Date, by 11:30 a.m. (New York time) on the next succeeding Business Day following delivery of such Withdrawal/Transfer Certificate to the Collateral Agent).
- (f) Failure of the Borrower to Submit Withdrawal/Transfer Certificate. Notwithstanding any other provision of this Agreement to the contrary, if at any time the Borrower fails to timely submit or cause to be timely submitted an Executed Withdrawal/Transfer Certificate to the Collateral Agent for the withdrawal, transfer or payment of amounts to any Collateral Account or Person, the Collateral Agent may (but shall not be obligated to) effect any withdrawal, transfer or payment, as the case may be, of any amounts then due and payable or required to be transferred pursuant to the terms of this Agreement or any other Financing Document. The Collateral Agent shall, as soon as practicable, provide written notice to the Borrower regarding any such withdrawals, transfer or payments.
- 3.03 **Transfer of Amounts.** Amounts improperly or inadvertently deposited into any Collateral Account shall be transferred by the Collateral Agent into the correct Collateral Accounts. Any withdrawals and transfers hereunder shall only be made to the extent that sufficient funds are then available (including as Permitted Investments) in the Collateral Account from which such withdrawal is to be made.
- 3.04 **Trigger Event.**
- (a) The Trigger Event Date. Notwithstanding anything in this Agreement to the contrary, on and after receipt by the Collateral Agent and the Borrower of written notice from the Agent that a Trigger Event has occurred and is continuing (the date of such notice, the “**Trigger Event Date**”): (i) no transfer or withdrawal of funds from any Collateral Account shall be requested by the Borrower or implemented by the Collateral Agent pursuant to any Withdrawal/Transfer Certificate or otherwise, and (ii) such funds shall be retained in the applicable Collateral Account for application by the Collateral Agent in accordance with a Remedies Direction.

- (b) Accounting. Promptly upon receipt of notice of the occurrence of (but no later than two Business Days after) any Trigger Event Date, the Collateral Agent shall render an accounting to the Agent and the Borrower of all monies in the Collateral Accounts as of the Trigger Event Date. Such accounting may be satisfied by delivery to the other Agents and the Borrower of the most recently available bank statement for such Collateral Account (including any electronically available statement) and a transaction or activity report for each Collateral Account covering the period from the closing date of the last statement through the delivery date thereof.

**3.05 Distribution of Collateral Proceeds.**

- (a) Priority of Payments. Upon the occurrence and during the continuation of a Trigger Event and following delivery of a Remedies Direction to the Collateral Agent in connection with the sale, disposition or other realization, collection or recovery of any amounts in the Collateral Accounts or any other Collateral (or any portion thereof), the Collateral Agent shall apply the proceeds of such sale, disposition, or other realization, collection or recovery toward the payment of the Secured Obligations in the following order of priority:
- (i) *first*, to any fees, costs, charges and expenses then due and payable to the Agent, the Collateral Agent and the Securities Intermediary under any Financing Document pro rata based on such respective amounts then due to such Persons;
  - (ii) *second*, to the respective outstanding fees, costs, charges and expenses then due and payable to the Secured Parties under any Financing Document pro rata based on such respective amounts then due to such Persons;
  - (iii) *third*, to any accrued but unpaid Interest Expense owed to the Secured Parties on the Secured Obligations pro rata based on such respective amounts then due to the Secured Parties;
  - (iv) *fourth*, to the respective overdue principal and other Debt Service with respect to the Secured Obligations owed to the Secured Parties under the Credit Agreement, pro rata based on such respective amounts then due to the Secured Parties;
  - (v) *fifth*, to the unpaid principal and other Debt Service with respect to the Secured Obligations then due and payable to the Secured Parties under the Credit Agreement, pro rata based on such respective amounts then due to the Secured Parties; and
  - (vi) *sixth*, after final payment in full of the amounts described in this Section 3.05 and the Termination Date shall have occurred, in accordance with Section 3.07.

- (b) Borrower Remains Liable for Deficiency. It is understood that the Borrower shall remain liable to the extent of any deficiency between the amount of the proceeds of the Depository Collateral and any other Collateral and the aggregate of the sums referred to in clauses first through fifth of paragraph (a) above.
- 3.06 Closing of Collateral Accounts. At any point prior to the Termination Date and subject to the other terms and conditions of this Agreement, if the Borrower requests in writing (and the Agent consents thereto in writing) at any time after the date on which a Collateral Account is no longer intended to be utilized pursuant to this Agreement that such Collateral Account be closed, the Agent shall direct the Collateral Agent to close such Collateral Account and transfer any amount standing to the credit of that Collateral Account (together with any accrued interest or profit on or income from such amount) to the Revenue Account for application pursuant to Section 4.03(b) or Section 4.03(c).
- 3.07 Disposition of Collateral Accounts upon Termination Date. Upon the Termination Date, the Collateral Agent shall pay any sums remaining in the Collateral Accounts to the order of the Borrower or as otherwise required by applicable law upon receipt of a certificate of an authorized officer of the Borrower certifying that the Termination Date has occurred, which certificate shall be acknowledged by the Agent and the Collateral Agent (which acknowledgement shall not be unreasonably withheld or delayed).

#### ARTICLE IV THE COLLATERAL ACCOUNTS

4.01 Phase 1 Construction Account and Phase 1 Punchlist Retention Subaccount.

- (a) Deposits to Phase 1 Construction Account. The following amounts shall be deposited into the Phase 1 Construction Account:
- (i) the Equity Contribution Amount;
  - (ii) the proceeds of all Phase 1 Loans made pursuant to the Credit Agreement (other than (w) Phase 1 Loans used to pay Debt Service on or prior to the Final Funding Date, which amounts shall be advanced directly to the Secured Parties entitled thereto, (x) the portion of the Phase 1 Loan made on the Final Funding Date not required to be transferred to the Phase 1 Punchlist Retention Subaccount or the Phase 1 Construction Payment Subaccount pursuant to Section 4.01(c)(ii) or Section 4.01(c)(iii), respectively, which amount shall be deposited to the Phase 2 Construction Account, (y) the repayment of Subordinated Indebtedness as contemplated in Section 8.09(a)(viii) of the Credit Agreement and (z) other amounts contemplated in the Credit Agreement to be paid out of the proceeds of the initial Phase 1 Loan);
  - (iii) Capacity Reservation Fees payable pursuant to the Omnibus Agreements received between the Original Closing Date and the Final Funding Date;

- (iv) each other contribution by any Person prior to the Term Conversion Date for the purposes of paying Phase 1 Project Costs; and
- (v) deposits from the Revenue Account pursuant to Section 4.03(b)(ii) below.

If any such amounts are remitted to the Borrower, the Borrower shall hold such amounts in trust for the Collateral Agent and shall, as promptly as possible after the receipt thereof, remit such amounts to the Collateral Agent for deposit in the Phase 1 Construction Account, with any necessary endorsements.

- (b) Transfers or Payments from the Phase 1 Construction Account Prior to the Final Funding Date Prior to the Final Funding Date, on each Monthly Transfer Date, subject to Section 3.05, the Collateral Agent shall, *provided* that it has received an Executed Withdrawal/Transfer Certificate in relation thereto, make the following withdrawals and transfers of amounts to the extent then available in the Phase 1 Construction Account as specified in and in accordance with such Executed Withdrawal/Transfer Certificate in the following order of priority:
  - (i) *First*, to the account of the Phase 1 EPC Contractor or such other Person or account specified therein, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 1 Project Costs due and payable within a 30-day period from the Withdrawal Date, net of any surplus remaining in the Phase 1 Construction Account from prior deposit of funds therein;
  - (ii) *Second*, after making the withdrawal and transfer above, to the Phase 1 Construction Payment Subaccount, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 1 Project Costs due and payable within a 30-day period from the Withdrawal Date, net of any surplus remaining in the Phase 1 Construction Account from prior deposit of funds therein;
  - (iii) *Third*, on each Monthly Transfer Date prior to the Term Conversion Date, after making the withdrawals and transfers above, to the Operating Account an amount set forth on the Executed Withdrawal/Transfer Certificate (without duplication of any amounts transferred pursuant to Section 4.03(b)(i)) and certified therein to be equal to the Operation and Maintenance Expenses then due and payable or to become due and payable within the next 30 days, net of any surplus remaining in the Operating Account from prior deposit of funds therein; and
  - (iv) *Fourth*, after making the withdrawals and transfers above, to pay to each Secured Party entitled thereto, all Debt Service and all fees, costs, indemnities and expenses then due and payable to such Person pursuant to the Financing Documents.
- (c) Transfers or Payments from the Phase 1 Construction Account on and after the Final Funding Date Subject to Section 3.05, on the Final Funding Date and, in

the case of transfers pursuant to clause *first*, on each Monthly Transfer Date thereafter, the Collateral Agent shall, *provided* that it has received an Executed Withdrawal/Transfer Certificate in relation thereto, make the following withdrawals and transfers of amounts to the extent then available in the Phase 1 Construction Account as specified in and in accordance with such Executed Withdrawal/Transfer Certificate in the following order of priority:

- (i) *First*, if applicable, to the account of the Phase 1 EPC Contractor or such other Person or account specified therein the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 1 Project Costs then due and payable;
  - (ii) *Second*, after making the withdrawals and transfers above, if applicable, to the Phase 1 Punchlist Retention Subaccount an amount specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the total cost of the punchlist items as notified by the Phase 1 EPC Contractor to the Borrower pursuant to Section 11.6B of the EPC Contract;
  - (iii) *Third*, after making the withdrawal and transfer above, to the Phase 1 Construction Payment Subaccount, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 1 Project Costs due and payable on or prior to Phase 1 Final Completion;
  - (iv) *Fourth*, after making the withdrawals and transfers above, to pay to each Secured Party entitled thereto, all fees, costs, indemnities and expenses then due and payable to such Person pursuant to the Financing Documents; and
  - (v) *Fifth*, after making each applicable withdrawal and transfer above, to the Debt Service Reserve Account, an amount necessary such that the balance in the Debt Service Reserve Account is equal to the Required Debt Service Reserve Amount.
- (d) Phase 1 Construction Payment Subaccount. Subject to Section 3.05, all amounts from time to time on deposit in the Phase 1 Construction Payment Subaccount shall be available at all times to the Borrower to be applied solely for the payment when due of Phase 1 Project Costs. Upon the receipt of a Payment Instruction, the Collateral Agent shall transfer funds from the Phase 1 Construction Payment Subaccount on the date (provided that the date specified for payment must be at least one (1) Business Day following receipt by the Collateral Agent), in the amount and to the Person or account specified therein.
- (e) Phase 1 Punchlist Retention Subaccount. Subject to Section 3.05, funds on deposit in the Phase 1 Punchlist Retention Subaccount may be withdrawn by the Borrower at any time upon delivery to the Collateral Agent of an Executed

Withdrawal/Transfer Certificate to be applied in payment of all costs in connection with completion of the punchlist items to be completed under the Phase 1 EPC Contract after the Final Funding Date.

- (f) Excess Amounts. Following the Final Funding Date and the funding of the Phase 1 Construction Payment Subaccount in accordance with Section 4.01(c)(iii) and the Phase 1 Punchlist Retention Subaccount in accordance with Section 4.01(c)(ii), any amounts remaining in the Phase 1 Construction Account shall be transferred by the Collateral Agent upon receipt of an Executed Withdrawal/Transfer Certificate to the Phase 2 Construction Account for application as set forth in Section 4.03. Following Phase 1 Completion, any amounts remaining in the Phase 1 Construction Payment Subaccount or the Phase 1 Punchlist Retention Subaccount shall be transferred by the Collateral Agent upon receipt of an Executed Withdrawal/Transfer Certificate to the Phase 2 Construction Account for application as set forth in Section 4.03.
- (g) Capacity Reservation Fees. Notwithstanding the foregoing provisions of this Section 4.01, all Capacity Reservation Fees received by the Collateral Agent from the Original Closing Date to the Final Funding Date, shall be transferred to the Distribution Account.

4.02 **Phase 2 Construction Account and Phase 2 Punchlist Retention Subaccount**

- (a) Deposits to Phase 2 Construction Account. The following amounts shall be deposited into the Phase 2 Construction Account:
  - (i) the proceeds of all Phase 2 Loans made pursuant to the Credit Agreement (other than Phase 2 Loans used to pay Debt Service on or prior to the Final Funding Date, which amounts shall be advanced directly to the Secured Parties entitled thereto);
  - (ii) the proceeds of the Phase 1 Loan made on the Final Funding Date remaining after the amounts required to be transferred to the Phase 1 Punchlist Retention Subaccount or the Phase 1 Construction Payment Subaccount pursuant to Section 4.01(c)(ii) or Section 4.01(c)(iii), respectively, have been so transferred;
  - (iii) each other contribution by any Person for the purposes of paying Phase 2 Project Costs;
  - (iv) deposits from the Revenue Account pursuant to Section 4.03(b)(iii) below; and
  - (v) deposits from the Phase 1 Construction Account, the Phase 1 Punchlist Retention Subaccount or the Phase 1 Construction Payment Subaccount pursuant to Section 4.01(f) above.

If any such amounts are remitted to the Borrower, the Borrower shall hold such amounts in trust for the Collateral Agent and shall, as promptly as possible after the receipt thereof, remit such amounts to the Collateral Agent for deposit in the Phase 2 Construction Account, with any necessary endorsements.

- (b) Transfers or Payments from the Phase 2 Construction Account Prior to the Final Funding Date Prior to the Final Funding Date, on each Monthly Transfer Date, subject to Section 3.05, the Collateral Agent shall, *provided* that it has received an Executed Withdrawal/Transfer Certificate in relation thereto, make the following withdrawals and transfers of amounts to the extent then available in the Phase 2 Construction Account as specified in and in accordance with such Executed Withdrawal/Transfer Certificate in the following order of priority:
- (i) *First*, to the account of any Phase 2 Construction Contractor or such other Person or account specified therein, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 2 Project Costs (A) then due and payable (or, on the Initial Phase 2 Funding Date, reimbursable to the Borrower or Cheniere LNG, Inc. or an Affiliate thereof) or (B) due and payable within a 30-day period from the Withdrawal Date, net of any surplus remaining in the Phase 2 Construction Account from prior deposit of funds therein;
  - (ii) *Second*, after making the withdrawal and transfer above, to the Phase 2 Construction Payment Subaccount, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 2 Project Costs due and payable within a 30-day period from the Withdrawal Date, net of any surplus remaining in the Phase 2 Construction Account from prior deposit of funds therein;
  - (iii) *Third*, on each Monthly Transfer Date prior to the Term Conversion Date, after making the withdrawals and transfers above, to the Operating Account an amount set forth on the Executed Withdrawal/Transfer Certificate (without duplication of any amounts transferred pursuant to Section 4.03(b)(i)) and certified therein to be equal to the Operation and Maintenance Expenses then due and payable or to become due and payable within the next 30 days, net of any surplus remaining in the Operating Account from prior deposit of funds therein and to the extent not paid pursuant to Section 4.01(b)(iii); and
  - (iv) *Fourth*, after making the withdrawals and transfers above, to pay to each Secured Party entitled thereto, all Debt Service and all fees, costs, indemnities and expenses then due and payable to such Person pursuant to the Financing Documents, to the extent not paid pursuant to Section 4.01(b)(iv).
- (c) Transfers or Payments from the Phase 2 Construction Account on and after the Final Funding Date Subject to Section 3.05, on the Final Funding Date and, in



the case of transfers pursuant to clause *first*, on each Monthly Transfer Date thereafter, the Collateral Agent shall, *provided* that it has received an Executed Withdrawal/Transfer Certificate in relation thereto, make the following withdrawals and transfers of amounts to the extent then available in the Phase 2 Construction Account as specified in and in accordance with such Executed Withdrawal/Transfer Certificate in the following order of priority:

- (i) *First*, if applicable, subject to the satisfaction of the conditions set forth in Section 6.04 of the Credit Agreement, to the account of any Phase 2 Construction Contractor or such other Person or account specified therein the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 2 Project Costs then due and payable;
- (ii) *Second*, after making the withdrawal and transfer above, to the Phase 2 Construction Payment Subaccount, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 2 Project Costs due and payable on or prior to Phase 2 Completion;
- (iii) *Third*, after making the withdrawal and transfer above, to the Bechtel Construction Payment Subaccount, the amounts specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Phase 2 Project Costs due and payable on or prior to Phase 2 Completion, to the extent not intended to be paid from the Phase 2 Construction Payment Subaccount pursuant to Section 4.02(c)(ii) above;
- (iv) *Fourth*, on each Monthly Transfer Date prior to the Phase 2 Completion Date, after making the withdrawals and transfers above, to the Operating Account an amount set forth on the Executed Withdrawal/Transfer Certificate (without duplication of any amounts transferred pursuant to Section 4.02(c)(i), Section 4.03(b)(i) or Section 4.03(c)(i)), and certified therein to be equal to the Operation and Maintenance Expenses then due and payable or to become due and payable within the next 30 days, net of any surplus remaining in the Operating Account from prior deposit of funds therein and to the extent not paid pursuant to Section 4.02(c)(i), Section 4.03(b)(i) or Section 4.03(c)(i);
- (v) *Fifth*, after making the withdrawals and transfers above, if applicable, to the Phase 2 Punchlist Retention Subaccount an amount specified in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the total cost of the punchlist items as notified to the Borrower by each Phase 2 Construction Contractor pursuant to the relevant Phase 2 Construction Contract or other contractor entering into an agreement with the Borrower in relation to Phase 2;
- (vi) *Sixth*, after making the withdrawals and transfers above, to pay to each Secured Party entitled thereto, all fees, costs, indemnities and expenses then due and payable to such Person pursuant to the Financing Documents and not paid pursuant to Section 4.01(c)(iv)<sup>1</sup>; and

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<sup>1</sup> Payment of Debt Service from Phase 2 Construction Account post-Final Funding Date (if necessary) under consideration.

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- (vii) *Seventh*, after making each applicable withdrawal and transfer above, to the Debt Service Reserve Account, an amount necessary such that the balance in the Debt Service Reserve Account is equal to the Required Debt Service Reserve Amount and not paid pursuant to Section 4.01(c)(v).
- (d) Phase 2 Construction Payment Subaccount. Subject to Section 3.05, all amounts from time to time on deposit in the Phase 2 Construction Payment Subaccount shall be available at all times to the Borrower to be applied solely for the payment when due of Phase 2 Project Costs. The Collateral Agent shall upon the receipt of a Payment Instruction, transfer funds from the Phase 2 Construction Payment Subaccount on the date (provided that the date specified for payment must be at least one (1) Business Day following receipt by the Collateral Agent), in the amount and to the Person or account specified therein.
- (e) Phase 2 Punchlist Retention Subaccount. Subject to Section 3.05, funds on deposit in the Phase 2 Punchlist Retention Subaccount may be withdrawn by the Borrower at any time upon delivery to the Collateral Agent of an Executed Withdrawal/Transfer Certificate to be applied in payment of all costs in connection with completion of the punchlist items to be completed under each Phase 2 Construction Contract and any other agreement entered into by the Borrower with a contractor in relation to Phase 2 after the Final Funding Date.
- (f) Bechtel Construction Payment Subaccount. Subject to Section 3.05, all amounts from time to time on deposit in the Bechtel Construction Payment Subaccount shall be available at all times to the signatories to the Bechtel Construction Payment Subaccount to be applied solely for the payment when due of Phase 2 Project Costs. The Collateral Agent shall upon receipt of a Bechtel Payment Instruction, subject to the Bechtel/Sabine Account Agreement, transfer funds from the Bechtel Construction Payment Subaccount on the date (provided that the date specified for payment must be at least one (1) Business Day following receipt by the Collateral Agent), in the amount and to the Person or account specified therein.
- (g) Excess Amounts. Upon Phase 2 Completion, any amount remaining in the Phase 2 Construction Account, Phase 2 Construction Payment Subaccount, Phase 2 Punchlist Retention Subaccount or Bechtel Construction Payment Subaccount shall be transferred by the Collateral Agent upon receipt of an Executed Withdrawal/Transfer Certificate to the Revenue Account for application as set forth in Section 4.03.

4.03 **Revenue Account.**

- (a) Deposits to the Revenue Account The Borrower shall or shall cause the following amounts to be deposited in the Revenue Account:
- (i) all Project Revenues received at any time by or on behalf of the Borrower;
  - (ii) the proceeds of all Permitted Indebtedness other than the Loans under the Credit Agreement;
  - (iii) all other amounts received at any time by or on behalf of the Borrower (including, without limitation, all payments in respect of Permitted Swap Agreements and all proceeds of Collateral received by the Collateral Agent pursuant to an exercise of remedies in accordance with the Financing Documents); and
  - (iv) deposits from the Phase 2 Construction Account, the Phase 2 Punchlist Retention Subaccount, the Phase 2 Construction Payment Subaccount or the Bechtel Construction Payment Subaccount pursuant to Section 4.02(g) above.

Notwithstanding the foregoing, in the event that any such payments, proceeds or other amounts constituting Project Revenues are received by the Borrower, the Borrower shall promptly pay, endorse, transfer and deliver the same to the Collateral Agent for deposit to the Revenue Account, and, until such delivery, the Borrower shall hold such payments and other amounts in trust for the Collateral Agent.

- (b) Transfers and Payments from the Revenue Account Prior to the Term Conversion Date Prior to the Term Conversion Date, on each Monthly Transfer Date, the Collateral Agent shall, subject to Section 3.05, *provided* that it has received an Executed Withdrawal/Transfer Certificate in relation thereto and in each case without duplication of any amount transferred pursuant to Section 4.01(b), make the following withdrawals and transfers of amounts to the extent then available in the Revenue Account, as specified and in accordance with such Executed Withdrawal/Transfer Certificate either (A) to the Debt Service Accrual Account to the extent of any Project Revenue deposited to the Revenue Account or (B) in the following order of priority:
- (i) *First*, to the Operating Account an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the amount necessary to pay Operation and Maintenance Expenses and obligations under the Assumption Agreement (other than Restricted Payments) to the extent that funds have been deposited by Cheniere Energy, Inc. to the Revenue Account for the purpose of paying such obligations then due and payable;

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- (ii) *Second*, after making the withdrawal and transfer above, to the Phase 1 Construction Payment Subaccount to pay any Phase 1 Project Costs in an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to Phase 1 Project Costs due or to become due and payable in the next succeeding 30-day period and not otherwise funded from the Phase 1 Construction Account pursuant to Section 4.01(b)(i);
  - (iii) *Third*, after making the withdrawal and transfer above, to the Phase 2 Construction Payment Subaccount to pay any Phase 2 Project Costs in an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to Phase 2 Project Costs due or to become due and payable in the next succeeding 30-day period and not otherwise funded from the Phase 2 Construction Account pursuant to Section 4.02(b)(i);
  - (iv) *Fourth*, after making each applicable withdrawal and transfer above, to pay each Secured Party entitled thereto, all Debt Service and all fees, costs, indemnities and expenses then due and payable to such Person pursuant to the Financing Documents and not otherwise funded from either the Phase 1 Construction Account or the Phase 2 Construction Account pursuant to Section 4.01(b)(iv) or Section 4.02(b)(iv), respectively;
  - (v) *Fifth*, after making each applicable withdrawal and transfer above, to the Phase 1 Punchlist Retention Subaccount, an amount, if any, set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the difference between the cost of punchlist items notified by the Phase 1 EPC Contractor to the Borrower pursuant to Section 11.6B of the Phase 1 EPC Contract and the amount of the transfer made from the Phase 1 Construction Account to the Phase 1 Punchlist Retention Subaccount pursuant to Section 4.01(c)(ii); and
  - (vi) *Sixth*, after making each applicable withdrawal and transfer above, to the Phase 2 Punchlist Retention Subaccount, an amount, if any, set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the difference between the cost of punchlist items notified to the Borrower by each Phase 2 Construction Contractor pursuant to the relevant Phase 2 Construction Contract or other contractor who has entered into an agreement with the Borrower in relation to Phase 2 and the amount of the transfer made from the Phase 2 Construction Account to the Phase 2 Punchlist Retention Subaccount pursuant to Section 4.02(c)(v);

*provided*, that in the case of paragraphs (ii) and (v) above, the Borrower shall have (a) delivered to the Independent Engineer and the Agent all invoices in relation thereto, and (b) received written approval of the Agent (acting in consultation with the Independent Engineer) for such withdrawal and transfer.

- (c) Withdrawals from the Revenue Account following the Term Conversion Date Subject to Section 3.05, on each Monthly Transfer Date on or following the Term Conversion Date, the Collateral Agent shall, *provided* that it has received an Executed Withdrawal/Transfer Certificate in relation thereto, make the following withdrawals and transfers of amounts to the extent then available in the Revenue Account, as specified in and in accordance with such Executed Withdrawal/Transfer Certificate in the following order of priority:
- (i) *First*, to the Operating Account an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the Operation and Maintenance Expenses and obligations under the Assumption Agreement (other than Restricted Payments) to the extent that funds have been deposited by Cheniere Energy, Inc. to the Revenue Account for the purpose of paying such obligations then due and payable or to become due and payable within the next 30 days, net of any surplus remaining in the Operating Account from prior deposits of funds therein;
  - (ii) *Second*, after making the withdrawal and transfer above, to the Borrower in an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to any Emergency Capital Expenditures, *provided*, that the Borrower may request withdrawals from the Revenue Account for the purposes of making Emergency Capital Expenditures on any date other than a Monthly Transfer Date upon delivery of an Executed Withdrawal/Transfer Certificate and receipt of the written approval of the Agent and the Independent Engineer;
  - (iii) *Third*, after making each applicable withdrawal and transfer above, to each Secured Party entitled thereto, all fees, costs, indemnities and expenses and unscheduled payments (other than prepayments of principal (and interest thereon) of Loans) then due and payable to such Person in accordance with the terms of the Financing Documents;
  - (iv) *Fourth*, after making each applicable withdrawal and transfer above, to the Debt Service Accrual Account, an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to (A) one-sixth (1/6<sup>th</sup>) of the Debt Service in respect of the Secured Obligations due on the immediately succeeding Principal Payment Date and (B) all other regularly scheduled Debt Service due or to become due and payable in the next succeeding 30-day period;
  - (v) *Fifth*, after making each applicable withdrawal and transfer above, to the Debt Service Reserve Account, an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the amount equal to the difference, if any, between the amount on deposit in the Debt Service Reserve Account and the Required Debt Service Reserve Amount;

- (vi) *Sixth*, after making each applicable withdrawal and transfer above, to the Income Tax Reserve Account an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to one third of the amount that would be due as a quarterly estimated payment in respect of federal income tax and state income and franchise tax liability that would have accrued if the Borrower were a corporation subject to federal income tax and state income and franchise tax; provided that in the case of the fourth calendar quarter, such estimated payment will be adjusted to take into account any increase or decrease in the estimated federal and state income and franchise tax liability of the immediately preceding annual tax reporting period;
- (vii) *Seventh*, after making each applicable withdrawal and transfer above, to the Borrower in the amount set forth on the Executed Withdrawal/Transfer Certificate, any Permitted Capital Expenditures described in paragraph (b) of the definition thereof; and
- (viii) *Eighth*, after making each applicable withdrawal and transfer above, to the Distribution Account an amount set forth on the Executed Withdrawal/Transfer Certificate and certified therein to be equal to the full remaining amount on deposit in the Revenue Account.

**4.04 Operating Account**

- (a) Deposits. There shall be deposited to the Operating Account the amounts distributed from the Revenue Account pursuant to Sections 4.01(b)(iii), 4.02(b)(iii), 4.03(b)(i) and 4.03(c)(i) above.
- (b) Withdrawals from the Operating Account. Subject to Section 3.05, all amounts from time to time on deposit in the Operating Account shall be available at all times to the Borrower to be applied solely for the payment when due and payable of Operation and Maintenance Expenses. Upon the receipt of a Payment Instruction, the Collateral Agent shall transfer funds from the Operating Account on the date (*provided* that the date specified for payment must be at least one (1) Business Day following receipt by the Collateral Agent), in the amount and to the Person or account specified therein.

**4.05 Debt Service Accrual Account**

- (a) Deposits to the Debt Service Accrual Account. There shall be deposited to the Debt Service Accrual Account (i) the amounts distributed from the Revenue Account pursuant to Section 4.03(b) and Section 4.03(c)(iv), (ii) the amounts transferred from time to time from the Debt Service Reserve Account pursuant to Section 4.06(b), (iii) any amounts contributed from time to time by the Borrower, any Pledgor or any other Person for the purposes of paying Debt Service and (iv) all other amounts from time to time paid to the Collateral Agent in respect of prepayments of the Secured Obligations including, without limitation, the net available amount of all sales of assets not otherwise permitted pursuant to Section 8.11(a) of the Credit Agreement.

(b) Withdrawals from the Debt Service Accrual Account

- (i) On each Semi-Annual Date or Principal Payment Date as applicable, amounts on deposit in the Debt Service Accrual Account shall be applied (to the extent then available) by the Collateral Agent in payment of all Debt Service in respect of the Secured Obligations due and payable as of such date;
- (ii) On any date on which a prepayment in respect of the Secured Obligations pursuant to the terms of this Agreement or the Credit Agreement is scheduled to be made, amounts on deposit in the Debt Service Accrual Account in respect of such prepayment shall be applied by the Collateral Agent in payment or prepayment of all such Secured Obligations;
- (iii) On each Monthly Transfer Date, the Collateral Agent shall, *provided* (A) it has received an Executed Withdrawal/Transfer Certificate in relation thereto and (B) after giving effect to such withdrawal, amounts on deposit in the Debt Service Accrual Account shall be equal to the Required Accrual Amount, make the following withdrawals and transfers of amounts to the extent then available in the Debt Service Accrual Account, as specified in and in accordance with such Executed Withdrawal/Transfer Certificate in the following order of priority:
  - (I) *First*, regularly scheduled payment to each counterparty to a Permitted Swap Agreement an amount set forth in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to all amounts due and payable in respect of the Permitted Swap Agreements;
  - (II) *Second*, after making the withdrawals and transfers above, for payment to each provider thereof an amount set forth in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to all amounts due and payable in respect of all Permitted Indebtedness described in Section 8.16(a)(ii) of the Credit Agreement;
  - (III) *Third*, after making the withdrawals and transfers above, for payment to each provider thereof an amount set forth in the Executed Withdrawal/Transfer Certificate and certified therein to be equal to all amounts due and payable in respect of all other Permitted Indebtedness.

4.06 **Debt Service Reserve Account.**

- (a) Deposits. There shall be deposited to the Debt Service Reserve Account the amounts distributed pursuant to Sections 4.01(c)(v), 4.02(c)(vii) and 4.03(c)(v) above.
- (b) Withdrawals from the Debt Service Reserve Account. If, on any date on which the Debt Service in respect to Secured Obligations is due and payable, the amounts on deposit in the Debt Service Accrual Account are not sufficient to pay the full amount of such Debt Service then due and payable, the Collateral Agent shall withdraw from the Debt Service Reserve Account an amount equal to such deficiency and transfer such amounts to the Debt Service Accrual Account to be applied in payment thereof.

4.07 **Income Tax Reserve Account.**

- (a) Deposits to the Income Tax Reserve Account. There shall be deposited to the Income Tax Reserve Account the amounts distributed from the Revenue Account pursuant to Section 4.03(c)(vi) above.
- (b) Withdrawals from the Income Tax Reserve Account. Subject to Section 3.05, all amounts from time to time on deposit in the Income Tax Reserve Account shall be available on a quarterly basis to the Borrower for distribution to the Pledgors by delivery of an Executed Withdrawal/Transfer Certificate to the Collateral Agent instructing that amounts be paid to the Pledgors entitled to payment therefor.

4.08 **Distribution Account.**

- (a) Deposits to the Distribution Account. There shall be deposited in the Distribution Account the amounts distributed pursuant to Sections 4.01(g) and 4.03(c)(viii) above.
- (b) Withdrawals from the Distribution Account. Subject to Section 3.05, all amounts from time to time on deposit in the Distribution Account shall be available to the Borrower on each Quarterly Date for distribution to the Pledgors or for funding of Permitted Capital Expenditures, *provided* that (i) such distribution is a permitted distribution pursuant to Section 8.12 of the Credit Agreement (a “**Permitted Distribution**”) and (ii) the Borrower shall have delivered to the Collateral Agent an Executed Withdrawal/Transfer Certificate with respect to such amounts to the Collateral Agent together with a Distribution Certificate in form and substance acceptable to the Agent.
- (c) Capacity Reservation Fees. Notwithstanding the foregoing provisions of this Section 4.08, all amounts transferred to the Distribution Account pursuant to Section 4.01(g) shall be available to the Borrower for distribution to the Pledgors on any Monthly Transfer Date following the Effective Date, *provided* that (i) no Event of Default has occurred and is continuing and (ii) the Borrower shall have



delivered to the Collateral Agent an Executed Withdrawal/Transfer Certificate with respect to such amounts to the Collateral Agent together with a Distribution Certificate in form and substance acceptable to the Agent.

4.09 **Insurance Proceeds Account.**

- (a) **Deposits to the Insurance Proceeds Account.** The Borrower shall deposit or shall cause to be deposited in the Insurance Proceeds Account the Net Available Amount of all Loss Proceeds in respect of any Event of Loss (including any amounts, instruments or proceeds received in respect of any Event of Taking) to which the Borrower or the Collateral Agent is entitled. If any such amounts are remitted to the Borrower, the Borrower shall hold such amounts in trust for the Collateral Agent and shall, as promptly as possible after the receipt thereof, remit such amounts to the Collateral Agent for deposit in the Insurance Proceeds Account, with any necessary endorsements.
- (b) **Withdrawals from the Insurance Proceeds Account.** Subject to Section 3.05, funds on deposit in the Insurance Proceeds Account shall be applied from time to time by the Collateral Agent for payments in respect of mandatory prepayment of the Loans, for Restoration or to the Borrower in the manner set forth in clauses (i) through (vi) (inclusive) below.
  - (i) **Compromise, Adjustment or Settlement.**
    - (A) To the extent not inconsistent with the Phase 1 EPC Contract or any Phase 2 Construction Contract, the Agent (in consultation with the Independent Engineer) shall be entitled at its option to participate in any compromise, adjustment or settlement in connection with any Event of Loss under any policy or policies of insurance or any proceeding with respect to any Condemnation of the Property of the Borrower in excess of \$5,000,000. The Borrower shall, within 30 days after the request therefore, reimburse the Agent for all reasonable out-of-pocket expenses (including reasonable attorneys' and experts' fees) incurred by the Agent in connection with such participation.
    - (B) Unless the Agent notifies the Borrower of its intention not to participate in any compromise, adjustment or settlement in accordance with clause (A) above, the Borrower shall not make any compromise, adjustment or settlement in connection with any Event of Loss under any policy or policies of insurance or any proceeding with respect to any Condemnation of the Property of the Borrower in excess of \$5,000,000 without the approval of the Agent (which shall not be unreasonably withheld or delayed). The Borrower shall diligently pursue all claims and rights to compensation against all relevant insurers and/or Government Authorities, as applicable, in respect of any Event of Loss.

(ii) Occurrence of Event of Loss: Loss Proceeds.

- (A) If an Event of Loss shall occur with respect to any Collateral, the Borrower (I) shall diligently pursue all of its rights to compensation against any person with respect to such Event of Loss and (II) shall not compromise, settle or consent to the settlement of any claim against any Person with respect to such Event of Loss except in accordance with the provisions of this Section 4.09(b).
- (B) Subject to the other provisions of this Agreement, in the event that the Net Available Amount of such Loss Proceeds in respect of any Event of Loss that occurs following Phase 2 Completion is \$25,000,000 or less, the Collateral Agent shall, upon receipt of an Executed Withdrawal/Transfer Certificate with respect thereto either (x) make such funds available to the Borrower for payment directly from the Insurance Proceeds Account for the purpose of Restoring the Affected Property or (y) (1) transfer such funds to the Debt Service Accrual Account for prepayment of the Loans or (2) *provided* that the Borrower and the Agent shall have received a certificate of the Independent Engineer certifying that the failure to Restore the Affected Property could not reasonably be expected to result in a Material Adverse Effect, to or as directed by the Borrower for any purpose in its sole discretion; *provided, further, however*, that, if the Borrower has not delivered an Executed Withdrawal/Transfer Certificate with respect to such Loan Proceeds within 90 days of the receipt thereof by the Collateral Agent, the Collateral Agent shall transfer such funds to the Collateral Agent for prepayment of Secured Obligations in accordance with Section 4.09(b)(vi).
- (C) Subject to Section 4.09(b)(iii) and the other provisions of this Agreement, in the event that the Net Available Amount of such Loss Proceeds with respect to any Event of Loss that (I) occurs prior to Phase 2 Completion is greater than \$5,000,000 or (II) occurs following Phase 2 Completion is greater than \$25,000,000, the Collateral Agent shall make such funds available to the Borrower for payment directly from the Insurance Proceeds Account for the purpose of Restoring the Affected Property in accordance with Section 4.09(b)(iii) below.

(iii) Restoration. Amounts to be made available to the Borrower from the Insurance Proceeds Account to be applied to the Restoration of the Affected Property following an Event of Loss ("**Restoration Work**") shall, be remitted to or as directed by the Borrower by the Collateral Agent, subject to the satisfaction of the following conditions:

- (A) the Borrower has delivered to the Independent Engineer, the Agent and the Collateral Agent plans and specifications for the Restoration Work, including reasonable estimates of the costs and time required to complete such Restoration Work and copies of all proposed construction or other contracts in connection therewith in form and substance reasonably acceptable to the Agent (in consultation with the Independent Engineer) (the "**Restoration Plan**");

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- (B) the Restoration Plan shall provide for Restoration Work that is technically feasible and that will reasonably be expected to, upon completion thereof, result in the Project being financially viable and able to pay Operation and Maintenance Expenses and Debt Service;
  - (C) the Restoration Plan shall provide for the Restoration Work to be completed within the period covered by business interruption insurance plus any additional period agreed between the Borrower and the Agent (after consultation with the Independent Engineer and the Insurance Advisor) for a cost not to exceed the amount on deposit in the Insurance Proceeds Account in respect of such Event of Loss together with any amounts previously paid directly to the Phase 1 EPC Contractor pursuant to the Phase 1 EPC Contract and any other Committed Available Amounts;
  - (D) the Independent Engineer shall have delivered to the Agent and the Collateral Agent a certificate to the effect that the amount of Loss Proceeds with respect to such Event of Loss, which has been deposited in the Insurance Proceeds Account together with any business interruption proceeds relating thereto, any amounts previously paid directly to the Phase 1 EPC Contractor pursuant to the Phase 1 EPC Contract and any Committed Available Amounts in respect of the Insurance Proceeds Account are sufficient during the period of time that is required, in the opinion of the Independent Engineer, to (I) Restore the Affected Property, (II) pay all Operation and Maintenance Expenses, (III) pay all Debt Service and (IV) in the case of any Event of Loss prior to Phase 1 Substantial Completion, achieve Phase 1 Substantial Completion in accordance with the Phase 1 Construction Budget and Schedule and to perform the Borrower's obligations under the TUAs then in effect; *provided*, that if the Independent Engineer is unable to provide such a certificate, consent of the Majority Lenders shall have been received;
  - (E) no Default or Event of Default could reasonably be expected to occur during Restoration as a consequence of Restoration Work, assuming that Restoration Work on the Project proceeds in accordance with the Restoration Plan;

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- (F) the Property constituting the Restoration Work shall be subject to the Lien of the Security Documents (whether by amendment to the Security Documents or otherwise) free and clear of all Liens other than Permitted Liens;
- (G) the Borrower has delivered a certificate of an Authorized Officer of the Borrower certifying that the conditions set out in paragraphs (iii)(B), (E) and (F) above have been satisfied;
- (H) each request by the Borrower for a disbursement of funds from the Insurance Proceeds Account shall be made on at least 10 days' prior written notice to the Collateral Agent and shall be accompanied by: (I) a certificate of each of an Authorized Officer of the Borrower and of the Independent Engineer that: (w) all of the Restoration Work theretofore completed has been done substantially in compliance with the Restoration Plan therefor; (x) the sum requested is required to pay for costs incurred in connection with such Restoration Work (giving a brief description of the services and materials provided in connection with such Restoration Work and attaching all invoices relating thereto); (y) the sum requested, when added to the amount of funds previously paid out of the Insurance Proceeds Account in respect of such Restoration Work and all funds paid directly to the Phase 1 EPC Contractor pursuant to the Phase 1 EPC Contract, does not exceed the cost of the Restoration Work done as of the date of such certificate; and (z) the amount of funds remaining in the Insurance Proceeds Account in respect of such Restoration Work together with all amounts previously paid directly to the Phase 1 EPC Contractor pursuant to the Phase 1 EPC Contract and any Committed Available Amounts in respect of the Insurance Proceeds Account will be sufficient to complete the Restoration Work (giving an estimate of the remaining cost of such completion in such reasonable detail as the Collateral Agent may require); (II) a certificate of an Authorized Officer of the Borrower certifying that no Default or Event of Default shall have occurred and is continuing at such date; (III) an Executed Withdrawal/Transfer Certificate; and (IV) such other certificates, documents or other information as the Collateral Agent shall reasonably require.
- (iv) Completion of Restoration Work. Once such Restoration Work is complete (such completion to be evidenced by a certificate of an Authorized Officer of the Borrower and a certificate of the Independent Engineer delivered to the Collateral Agent), any remaining relevant Loss Proceeds shall be deposited in the Revenue Account for application in accordance with this Agreement.

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- (v) Abandonment of or Failure to Pursue Restoration Work. If any Secured Party shall in good faith reasonably determine and notify the Collateral Agent in writing that (A) the Borrower has ceased to carry on or has suspended all or substantially all of its activities in connection with the Restoration Work or has otherwise abandoned the Restoration Work for a period of 90 days or more, other than where cessation or suspension is due to an event of force majeure and the Borrower is using commercially reasonable efforts to commence or recommence such Restoration Work, (B) the Borrower has otherwise failed to pursue the Restoration Work substantially in accordance with the Restoration Plan for 90 or more days or (C) the Borrower has failed to deliver to the Collateral Agent and the Agent a Restoration Plan within 90 days of the deposit of the Loss Proceeds in respect of an Event Loss, then the Collateral Agent shall promptly prepay the Secured Obligations in accordance with clause (vi) below.
- (vi) Application to Secured Obligations. In the event that funds on deposit in the Insurance Proceeds Account are to be applied to the prepayment of Secured Obligations pursuant to this Section 4.09(b), the Borrower shall prepay the Loans on the date falling two Business Days after the date that such amounts are to be so applied pursuant to this Section 4.09(b) (such date, the “**Loss Proceeds Prepayment Date**”) in an amount equal to the Net Available Amount of the Loss Proceeds received in respect of the applicable Event of Loss minus any amounts withdrawn from the Insurance Proceeds Account in respect of such Event of Loss prior to such date in accordance with clauses (i) through (v) of this Section 4.09(b). In accordance with the preceding sentence, the Borrower shall instruct the Collateral Agent to withdraw, one Business Day prior to the Loss Proceeds Prepayment Date, all funds on deposit in the Insurance Proceeds Account and transfer such funds to the Secured Parties for payment of the Secured Obligations in accordance with the relevant Financing Documents, ratably (based on the outstanding principal amount of such Secured Obligations).
- (vii) Cooperation. Each of the Agent and the Borrower hereto hereby agrees to use commercially reasonable efforts to fulfill the conditions set forth in Section 4.09(b)(iii) within the time periods set forth in Attachment O of the Phase 1 EPC Contract.

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**ARTICLE V**  
**AGREEMENTS WITH AGENTS**

- 5.01 **Stamp and Other Similar Taxes.** The Borrower shall pay at any time all stamp duty, registration taxes, fees or charges and other duties, levies, charges and fees which may be assessed, levied or collected by any jurisdiction in connection with this Agreement, any other Financing Document or the attachment or perfection of the Lien granted to the Collateral Agent in any Depository Collateral and shall from time to time upon demand by the Agent indemnify each of the Agent, the Collateral Agent, the Securities Intermediary, each receiver appointed under this Agreement and each of the other Secured Parties against any liabilities, costs, claims, expenses, penalties and interest resulting from any failure to pay or any delay in paying any such duty or tax (except to the extent that such liabilities, costs, claims, expenses, penalties and interest result from the gross negligence or willful misconduct of any such Person as finally determined by a court of competent jurisdiction).
- 5.02 **Filing Fees, Excise Taxes, Etc.** The Borrower agrees to pay or to reimburse the Agent and the Collateral Agent on demand for any and all amounts in respect of all search, filing and recording fees, taxes, excise taxes, sales taxes and other similar imposts which may be payable or determined to be payable in respect of the execution, delivery, performance and enforcement of this Agreement and each other Financing Document to which either such Person is a party and agrees to hold each such Person harmless from and against any and all liabilities, costs, claims, expenses, penalties and interest with respect to or resulting from any delay in paying or omission to pay such taxes and fees (except to the extent that such liabilities, costs, claims, expenses, penalties and interest result from the gross negligence or willful misconduct of any such Person as finally determined by a court of competent jurisdiction).

**ARTICLE VI**  
**THE COLLATERAL AGENT**

- 6.01 **General.** The provisions of this Article VI are solely for the benefit of the Secured Parties, the Agent and the Collateral Agent and, except to the extent expressly provided in this Article VI, the Borrower shall have no rights or obligations under this Article VI against the Collateral Agent, the Agent or any other Secured Party; *provided* that the Collateral Agent shall be liable to the Borrower for the Collateral Agent's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the eligibility of or affording protection to the Collateral Agent shall be subject to the provision of this Article VI.
- 6.02 **Reliance by the Collateral Agent.** The Collateral Agent (to the extent indicated in Section 2.01(c)) shall be entitled to rely upon any officer's certificate of an authorized officer of the Borrower, the Agent or any other relevant certificate, notice or other document (including any cable, telegram or telecopy) believed by it to be genuine and to

have been signed or sent by or on behalf of the proper Person or Persons, and shall have no liability for its actions taken thereupon, unless due to the Collateral Agent's willful misconduct or gross negligence as finally determined by a court of competent jurisdiction. Without limiting the foregoing, the Collateral Agent shall be required to make payments to the Agents, the Secured Parties or other Persons only as set forth herein. The Collateral Agent shall be fully justified in failing or refusing to take any action under this Agreement (a) if such action would, in the opinion of the Collateral Agent, be contrary to applicable law or the terms of this Agreement, (b) if such action is not specifically provided for in this Agreement and it shall not have received any such advice or concurrence of the Agent or the Borrower as it deems appropriate or (c) if, in connection with the taking of any such action that would constitute an exercise of remedies under this Agreement or the Credit Agreement, it shall not first be indemnified to its satisfaction or as required by this Agreement or the Credit Agreement against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with any Executed Withdrawal/Transfer Certificate, any Remedies Direction or other instruction of the Borrower or the Agent (in each case to the extent such Person is expressly authorized hereunder to direct the Collateral Agent to take or refrain from taking such action), and such action taken or failure to act pursuant thereto shall be binding upon the Borrower, the Agents and the Secured Parties. In the event that the Collateral Agent is required to perform any action on a particular date only following the delivery of an officer's certificate or other document, the Collateral Agent shall be fully justified in failing to perform such action if it has not first received such officer's certificate or other document and shall be fully justified in continuing to fail to perform such action until such time as it has received such officer's certificate or other document.

- 6.03 **Court Orders.** The Collateral Agent is hereby authorized to obey and comply with all writs, orders, judgments or decrees issued by any court or administrative agency affecting any money, documents or things held by the Collateral Agent. The Collateral Agent shall not be liable to any of the parties hereto or any other Secured Party, their successors, heirs or personal representatives by reason of the Collateral Agent's compliance with such writs, orders, judgments or decrees, notwithstanding such writ, order, judgment or decree is later reversed, modified, set aside or vacated.
- 6.04 **Resignation or Removal.** Subject to the appointment and acceptance of a successor the Collateral Agent as provided below, the Collateral Agent may resign at any time by giving notice thereof to the parties hereto, and the Collateral Agent may be removed at any time with or without cause by the Majority Lenders. Upon any such resignation or removal, the Majority Lenders shall have the right to appoint, with the consent of the Borrower (unless a Default or an Event of Default has occurred and is continuing), such consent not to be unreasonably withheld or delayed, a successor Collateral Agent. Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent, and the retiring Collateral Agent shall be discharged from its duties and obligations hereunder. If no successor Collateral Agent shall have been so appointed by the Majority

Lenders and shall have accepted such appointment within 30 days following the delivery by the Collateral Agent of a notice of resignation, then the retiring Collateral Agent, in its discretion, may tender into the custody of a court of competent jurisdiction all assets then held by it hereunder, and thereupon shall be discharged from its duties hereunder. After the retiring Collateral Agent's resignation or removal hereunder as the Collateral Agent, the provisions of this Article VI shall continue in effect for its benefit in respect of any actions taken, suffered or omitted while it was acting as Collateral Agent. A retiring Collateral Agent shall also be deemed to retire as the Securities Intermediary, and any successor Collateral Agent shall be deemed to be the successor Securities Intermediary.

6.05 **Exculpatory Provisions.**

- (a) Recitals; Value of Collateral; Etc. Neither the Collateral Agent nor any of its affiliates shall be responsible to the Borrower, any other Agent or any Secured Party for: (i) any recitals, statements, representations or warranties made by the Borrower contained in this Agreement or any other Financing Document or in any certificates or other document referred to or provided for in, or received by any Secured Party under, this Agreement or any other Financing Document; (ii) the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Financing Document or any other document referred to or provided for herein or therein or the perfection, priority or validity of any of the Liens created by the Financing Documents; or (iii) any failure by the Borrower to perform its obligations hereunder or thereunder.
- (b) Performance by the Borrower. The Collateral Agent shall not be required to ascertain or inquire as to the performance by the Borrower of any of its obligations under any Financing Document or any other document or agreement contemplated hereby or thereby.
- (c) Initiation of Litigation, Etc. The Collateral Agent shall not be: (i) required to initiate or conduct any litigation or collection proceeding hereunder or under any other Financing Document; or (ii) responsible for any action taken, suffered or omitted to be taken by it hereunder (except for its own gross negligence or willful misconduct as finally determined by a court of competent jurisdiction).
- (d) Insurance and Taxes on Depository Collateral. The Collateral Agent shall not be liable or responsible for insuring the Depository Collateral or for the payment of taxes, charges, assessments or liens upon the Depository Collateral or otherwise as to the maintenance of the Depository Collateral.
- (e) Personal Liability of the Collateral Agent. The Collateral Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with this Agreement or any other Financing Document or any instruction or direction given to it in accordance with the terms or in furtherance of this Agreement or any other Financing Document unless arising out of its own gross negligence or willful misconduct as finally determined by a court of competent jurisdiction.



- (f) **Limitation of Liability.** No provision of this Agreement shall be construed to relieve the Collateral Agent from liability for its own grossly negligent action, its own grossly negligent failure to act, or its own willful misconduct as finally determined by a court of competent jurisdiction. The Collateral Agent shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Agent and except to the extent of income or other gain on investments that are deposits in or certificates of deposits or other obligations of the Collateral Agent in its commercial capacity and income or other gain actually received by the Collateral Agent on Permitted Investments.
- (g) **Indemnification.** The Borrower shall indemnify the Collateral Agent and the Securities Intermediary against any liabilities, costs, claims, expenses, penalties and interest by reason of any claims of third parties (other than the Lenders) resulting from the execution, delivery, enforcement, performance or administration of any transactions contemplated hereby (except to the extent that such liabilities, costs, claims, expenses, penalties and interest result from the gross negligence or willful misconduct of the Collateral Agent or the Securities Intermediary as finally determined by a court of competent jurisdiction).
- 6.06 **Fees; Expenses.** The Collateral Agent shall be compensated for its services hereunder in accordance with the agreed fee schedule attached hereto as Schedule II. The Borrower agrees to pay or reimburse all reasonable out-of-pocket expenses of the Collateral Agent (including reasonable fees and expenses for legal services) in respect of, or incident to, the preparation, delivery, execution, administration or enforcement of any of the provisions of this Agreement or in connection with any amendment, waiver or consent relating to this Agreement.
- 6.07 **Reports; Documents.** The Collateral Agent shall provide to the Borrower and the Agent, who in turn shall promptly provide to the Secured Parties, a monthly statement of all deposits to, disbursements from and interest and earnings credited to each Collateral Account. The Agent has delivered to the Collateral Agent a true and correct copy of the Credit Agreement (including Appendix A thereto) as in effect on the date hereof, and from time to time shall deliver to the Collateral Agent any true and complete copies of all amendments thereto.

## ARTICLE VII MISCELLANEOUS

- 7.01 **No Waiver; Remedies Cumulative.** No failure or delay on the part of any party hereto or any Secured Party in exercising any right, power or privilege hereunder and no course of dealing between parties hereto shall impair any such right, power or privilege or operate as a waiver thereof. No single or partial exercise by any party hereto or any Secured Party 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 hereunder. The rights, powers and remedies provided herein are cumulative and not exclusive of any rights, powers or remedies which any party thereto would otherwise have. No notice to

or demand by any party hereto or any Secured Party on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any party hereto or any Secured Party to any other or further action in any circumstances without notice or demand.

- 7.02 **Notices.** All notices, payment instructions, Remedies Directions and other communications required or permitted to be given hereunder shall be (a) in writing and be considered as properly given and be deemed effective in accordance with Section 11.02 of the Credit Agreement; and (b) sent to a party hereto at its address and contact number specified in Section 11.02 of the Credit Agreement, or at such other address and contact number as is designated by any party in a written notice to the other parties hereto; *provided*, that with respect to determining whether any notice, payment instruction, Remedies Direction or other communication to the Agent or the Collateral Agent has been given hereunder, unless otherwise expressly provided herein, such notice shall be deemed effectively given and received on the actual day of receipt by the Agent or the Collateral Agent, as the case may be, of such notice, payment instruction, Remedies Direction or other communication at its designated office for delivery of notices.
- 7.03 **Amendments.** This Agreement may be amended or modified only by an instrument in writing signed by each of the parties hereto.
- 7.04 **Benefit of Agreement; Successors and Assigns.** (a) This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; *provided, however*, that the Borrower may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Agent and all Lenders.
- (b) In the event that any Person becomes a counterparty to a Permitted Swap Agreement and such Person has not previously executed a Secured Party Addition Agreement in its capacity as a counterparty to a Permitted Swap Agreement, such Person shall execute and deliver to the Collateral Agent: (i) a Secured Party Addition Agreement and (ii) such other documentation as the Collateral Agent may reasonably request. Upon execution and delivery of a Secured Party Addition Agreement, a counterparty to a Permitted Swap Agreement shall be deemed to be a Secured Party for all purposes under the Financing Documents. In furtherance of the foregoing, the counterparty to a Permitted Swap Agreement shall be deemed to have agreed to be bound by the provisions of the Credit Agreement for the limited purposes of indemnifying the Collateral Agent pursuant to Section 10.05 thereof (assuming for purposes of calculating such Person's liability to make payments on any indemnity claimed thereunder, that any net settlement amount payable to such counterparty to a Permitted Swap Agreement is treated as such Person's outstanding principal amount of Loans).
- 7.05 **Third-Party Beneficiaries.** The covenants contained herein are made solely for the benefit of the parties hereto, and successors and assigns of such parties as specified herein, and shall not be construed as having been intended to benefit any third-party not a party to this Agreement.

- 7.06 **Counterparts.** This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when executed and delivered, shall be effective for purposes of binding the parties hereto, but all of which shall together constitute one and the same instrument.
- 7.07 **Effectiveness.** This Agreement shall be effective on the date first above written.
- 7.08 **Entire Agreement.** This Agreement and the other Financing Documents, including the documents referred to herein, constitute the entire agreement and understanding of the parties hereto, and supersede any and all prior agreements and understandings, written or oral, of the parties hereto relating to the subject matter hereof.
- 7.09 **Severability.** If any provision of this Agreement is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law: (a) the other provisions of this Agreement shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the parties hereto as nearly as may be possible; and (b) the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.
- 7.10 **Conflict with Other Agreements.** Except as otherwise expressly provided herein, the parties agree that in the event of any conflict between the provisions of this Agreement (or any portion thereof) and the provisions of any other Financing Document or any other agreement (other than the Credit Agreement) now existing or hereafter entered into, the provisions of this Agreement shall control. Except as otherwise expressly provided herein, the event of any conflict between the provisions of this Agreement and the provisions of the Credit Agreement, the provisions of the Credit Agreement shall control. In the event that in connection with the establishment of any of the Collateral Accounts with the Collateral Agent, the Borrower shall enter into any agreement, instrument or other document with the Collateral Agent which has terms that are in conflict with or inconsistent with the terms of this Agreement, the terms of this Agreement shall control.
- 7.11 **Dealings With the Borrower.** Upon any application or demand (other than a Payment Instruction) by the Borrower to the Collateral Agent to take or permit any action under any of the provisions of this Agreement or any other Security Document (including pursuant to a Withdrawal/Transfer Certificate), the Borrower shall, furnish to the Collateral Agent a certificate (which may be part of the Withdrawal/Transfer Certificate) signed by an authorized officer of the Borrower stating that all conditions precedent, if any, provided for in this Agreement or any other Security Document relating to the proposed action have been complied with. In the case of any such application or demand as to which the furnishing of specified documents is required by any provision of this Agreement or any other Security Document relating to such particular application or demand, no additional certificate or opinion need be furnished.
- 7.12 **Governing Law; Submission to Jurisdiction; Venue; Waiver of Jury Trial.** This Agreement shall be governed by, and construed in accordance with, the law of the State of New York and the provisions of Section 11.18 and Section 11.19 of the Credit

Agreement are hereby incorporated herein by reference, *mutatis mutandis*, as if fully set out in this Agreement and each reference in any such Section of the Credit Agreement to the "Agreement", "herein", "hereunder" and like terms shall be deemed to refer to this Agreement, *provided, however*, that notwithstanding anything in any Financing Document to the contrary, for purposes of the UCC, the "security intermediary's jurisdiction" (within the meaning of Section 8-110(e) of the UCC) with respect to the Collateral Accounts is the State of New York.

- 7.13 **Termination.** Upon the Termination Date, this Agreement shall (except as otherwise expressly set out herein) terminate and be of no further force and effect; *provided*, that the obligations of the Borrower pursuant to Sections 6.05(e), (f) and (g), Section 6.06 and Section 7.12 shall survive the Termination Date.
- 7.14 **Reinstatement.** This Agreement and the obligations of the Borrower hereunder shall continue to be effective or be automatically reinstated, as the case may be, if (and to the extent that) at any time payment and performance of the Borrower's obligations hereunder, or any part thereof, is rescinded or reduced in amount, or must otherwise be restored or returned by any Agent or any other Secured Party. In the event that any payment or any part thereof is so rescinded, reduced, restored or returned, such obligations shall be reinstated on the same terms and conditions applicable thereto prior to the payment of the rescinded, reduced, restored or returned amount, and shall be deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.
- 7.15 **Attorney-In-Fact.** For the purposes of allowing the Agents to exercise their rights and remedies upon the occurrence and continuance of an Event of Default, the Borrower irrevocably constitutes and appoints each Agent and any officer or agent thereof, with full power of substitution as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name, for the purpose of carrying out the terms of this Agreement, to take any appropriate action and to execute any document or instrument that may be necessary or desirable to accomplish the purposes of this Agreement. Upon the occurrence and continuance of an Event of Default, the Agent shall promptly inform the Collateral Agent in writing that an Event of Default has occurred and is continuing and that the Agent is exercising remedies under this Section 7.15.

[SIGNATURES TO FOLLOW]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:

SABINE PASS LNG, L.P.

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

By: /s/ Graham A. McArthur

Name: Graham A. McArthur

Title: Treasurer

Address for Notices:

717 Texas Avenue, Suite 3100

Houston, TX 77002

Attn: Don Turkleson

COLLATERAL AGENT and SECURITIES INTERMEDIARY

HSBC BANK USA, NATIONAL ASSOCIATION

By: /s/ Deirdra N. Ross  
Name: Deirdra N. Ross  
Title: Assistant Vice President

Address for Notices:

HSBC Bank USA, National Association  
452 Fifth Avenue  
New York, NY 10018  
Attn: Corporate Trust

With a copy to:

DLA Piper Rudnick Gray Cary US LLP  
One Liberty Place  
1650 Market Street, Suite 4900  
Philadelphia, PA 19103  
Attn: Peter Tucci, Esq.

AGENT:

SOCIÉTÉ GÉNÉRALE

By: /s/ Edward J. Grimm  
Name: Edward J. Grimm  
Title: Director

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address for Notices:

1221 Avenue of the Americas  
New York, NY 10020  
Attn: Robert Preminger

Telephone:  
Fax:

[Letterhead of the Company]  
**FORM OF WITHDRAWAL/TRANSFER CERTIFICATE**

Date of this Withdrawal/Transfer Certificate: [\_\_\_\_\_]   
Transfer Date: [\_\_\_\_\_]

HSBC Bank USA, National Association  
as Collateral Agent  
452 Fifth Avenue  
New York, NY 10018  
Attn: Corporate Trust

***Re: Sabine Pass LNG Project***

Ladies and Gentlemen:

1. This Withdrawal/Transfer Certificate is delivered to you pursuant to the Amended and Restated Collateral Agency Agreement dated as of [\_\_\_\_\_] 2006 (as amended, supplemented or modified and in effect from time to time, the "Collateral Agency Agreement") among HSBC Bank USA, National Association, in its capacity as collateral agent (together with its successors and permitted assigns in such capacity, the "Collateral Agent") and securities intermediary, Société Générale, in its capacity as agent (the "Agent") and Sabine Pass LNG, L.P. (the "Company"). Reference is also made to the Amended and Restated Credit Agreement dated as of [\_\_\_\_\_] 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among the Company, each of the lenders from time to time party to the Credit Agreement (the "Lenders"), the Agent and the Collateral Agent. Capitalized terms used but not defined herein shall have the respective meanings assigned thereto in the Collateral Agency Agreement or, if not defined therein, in the Credit Agreement.
2. The undersigned has read and is familiar with the provisions of the Collateral Agency Agreement and the other Financing Documents which are relevant to the furnishing of this Withdrawal/Transfer Certificate. With respect to the information in this Withdrawal/Transfer Certificate, the undersigned has made such examination or investigation as was, in [his] [her] reasonable opinion, necessary to enable [him] [her] to express an opinion as to the accuracy of such information.
3. This Withdrawal/Transfer Certificate is being provided to you at least five Business Days prior to the Transfer Date set out above (the "Proposed Transfer Date").
4. Phase 1 Construction Account: Cash Flow Waterfall
  - (a) The Company hereby requests that the amount set forth in column 1 of Annex A-1 be transferred from the Phase 1 Construction Account to the applicable

EXHIBIT A TO  
COLLATERAL AGENCY AGREEMENT

Collateral Account or Person set forth on column 2 of Annex A-1 on the Proposed Transfer Date (each such transfer, a "Phase 1 Construction Account Monthly Transfer").

- (b) On each date set forth in column 1 of Annex A-2 hereto (each such date, a "Phase 1 Construction Secondary Withdrawal/Transfer Date"), the Company hereby requests that the sum set forth in column 2 of Annex A-2 opposite such Phase 1 Construction Account Withdrawal/Transfer Date be withdrawn and transferred from the Collateral Account identified in column 3 to the Collateral Account or Person set forth on column 4 of Annex A-2 hereto on the applicable Phase 1 Construction Secondary Withdrawal/Transfer Date (each such requested withdrawal and/or transfer as described in any row appearing in Annex A-2 hereto, a "Phase 1 Construction Secondary Withdrawal/Transfer"). Each Phase 1 Construction Secondary Withdrawal/Transfer marked with an "\*" constitutes a Payment Instruction as contemplated under the Collateral Agency Agreement.
- (c) Each Phase 1 Construction Account Monthly Transfer specified in Annex A-1 is to be applied for the purpose described in column 3 of the row relating to such Phase 1 Construction Account Monthly Transfer and each Phase 1 Construction Secondary Withdrawal/Transfer specified in Annex A-2 is to be applied for the purpose described in column 5 of the row relating to such Phase 1 Construction Secondary Withdrawal/Transfer.

5. Phase 2 Construction Account; Cash Flow Waterfall

- (a) The Company hereby requests that the amount set forth in column 1 of Annex A-3 be transferred from the Phase 2 Construction Account to the applicable Collateral Account or Person set forth on column 2 of Annex A-3 on the Proposed Transfer Date (each such transfer, a "Phase 2 Construction Account Monthly Transfer").
- (b) On each date set forth in column 1 of Annex A-4 hereto (each such date, a "Phase 2 Construction Secondary Withdrawal/Transfer Date"), the Company hereby requests that the sum set forth in column 2 of Annex A-4 opposite such Phase 2 Construction Account Withdrawal/Transfer Date be withdrawn and transferred from the Collateral Account identified in column 3 to the Collateral Account or Person set forth on column 4 of Annex A-4 hereto on the applicable Phase 2 Construction Secondary Withdrawal/Transfer Date (each such requested withdrawal and/or transfer as described in any row appearing in Annex A-4 hereto, a "Phase 2 Construction Secondary Withdrawal/Transfer"). Each Phase 2 Construction Secondary Withdrawal/Transfer marked with an "\*" constitutes a Payment Instruction as contemplated under the Collateral Agency Agreement.
- (c) Each Phase 2 Construction Account Monthly Transfer specified in Annex A-3 is to be applied for the purpose described in column 3 of the row relating to such Phase 2 Construction Account Monthly Transfer and each Phase 2 Construction Secondary Withdrawal/Transfer specified in Annex A-4 is to be applied for the purpose described in column 5 of the row relating to such Phase 2 Construction Secondary Withdrawal/Transfer.



6. Revenue Account: Cash Flow Waterfall

- (a) The Company hereby requests that the amount set forth in column 1 of Annex A-5 be transferred from the Revenue Account to the applicable Collateral Account or Person set forth on column 2 of Annex A-5 on the Proposed Transfer Date (each such transfer, a “Revenue Account Monthly Transfer”).
- (b) On each date set forth in column 1 of Annex A-6 hereto (each such date, a “Revenue Account Secondary Withdrawal/Transfer Date”), the Company hereby requests that the sum set forth in column 2 of Annex A-6 opposite such Revenue Account Secondary Withdrawal/Transfer Date be withdrawn and transferred from the Collateral Account identified in column 3 to the Collateral Account or Person set forth on column 4 of Annex A-6 hereto on the applicable Revenue Account Withdrawal/Transfer Date (each such requested withdrawal and/or transfer as described in any row appearing in Annex A-6 hereto, a “Revenue Account Secondary Withdrawal/Transfer”). Each Revenue Account Secondary Withdrawal/Transfer marked with an “\*” constitutes a Payment Instruction as contemplated under the Collateral Agency Agreement.
- (c) Each Revenue Account Monthly Transfer specified in Annex A-5 is to be applied for the purpose described in column 3 of the row relating to such Revenue Account Monthly Transfer and each Revenue Secondary Withdrawal/Transfer specified in Annex A-6 is to be applied for the purpose described in column 5 of the row relating to such Revenue Secondary Withdrawal/Transfer.

7. Payment of Phase 1 Project Costs

- (a) The amount to be transferred from the Phase 1 Construction Account to the account of [the Phase 1 EPC Contractor] [or specify other Person or account] on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount [together with amounts to be transferred to the Phase 1 Construction Payment Subaccount from the Revenue Account for the payment of Phase 1 Project Costs on the proposed Withdrawal/Transfer Date]<sup>2</sup> is equal to the Phase 1 Project Costs then due and payable.
- [(b) The amount to be transferred from the Revenue Account to the Phase 1 Construction Payment Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Phase 1 Project Costs that will become due and payable within a 30-day period from the Transfer Date stated above not otherwise funded from the Phase 1 Construction Account pursuant to paragraph 7(a) above.]<sup>3</sup>

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<sup>2</sup> Insert as applicable.

<sup>3</sup> Insert only to the extent that amounts on deposit in Phase 1 Construction Account are insufficient to cover all Phase 1 Project Costs due and payable on the proposed Withdrawal/Transfer Date.

- [(c) The amount to be transferred from the Phase 1 Construction Account to the Phase 1 Construction Payment Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Phase 1 Project Costs that will become due [within a 30-day period from the Transfer Date stated above] [on or prior to Phase 1 Final Completion]<sup>5</sup>.
- [(d) The amount to be transferred from the Phase 1 Construction Account to the Phase 1 Punchlist Retention Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount [together with amounts to be transferred from the Revenue Account to the Phase 1 Punchlist Retention Subaccount pursuant to paragraph 7(e) below] is equal to the total cost of the punchlist items owing to, and as notified by, the Phase 1 EPC Contractor to the Company pursuant to Section 11.6B of the Phase 1 EPC Contract.]<sup>6</sup>
- [(e) The amount to be transferred from the Revenue Account to the Phase 1 Punchlist Retention Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the difference between the cost of punchlist items notified by the Phase 1 EPC Contractor to the Borrower pursuant to Section 11.6B of the Phase 1 EPC Contract and the amount of the transfer made from the Phase 1 Construction Account to the Phase 1 Punchlist Retention Subaccount pursuant to Section 4.01(c)(ii) of the Credit Agreement.]<sup>7</sup>
- [(f) The amount to be transferred from the Phase 1 Punchlist Retention Subaccount on the Phase 1 Construction Secondary Withdrawal/Transfer Date is \$[\_\_\_\_\_], which amount is equal to the cost of punchlist items then due and payable.<sup>8</sup>

8. Payment of Phase 2 Project Costs

- (a) The amount to be transferred from the Phase 2 Construction Account to the account of [any Phase 2 Construction Contractor] [or specify other Person or account] on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount [together with amounts to be transferred to the Phase 2 Construction Payment Subaccount from the Revenue Account for the payment of Phase 2 Project Costs on the proposed Withdrawal/Transfer Date]<sup>9</sup> is equal to the Phase 2 Project Costs then due and payable.

<sup>4</sup> Insert only with respect to transfers occurring prior to Final Funding Date.

<sup>5</sup> Insert only with respect to transfers occurring on or after Final Funding Date.

<sup>6</sup> Insert if applicable.

<sup>7</sup> Insert if applicable.

<sup>8</sup> Insert if applicable.

<sup>9</sup> Insert as applicable.

- (b) The amount to be transferred from the Revenue Account to the Phase 2 Construction Payment Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Phase 2 Project Costs that will become due and payable within a 30-day period from the Transfer Date stated above not otherwise funded from the Phase 2 Construction Account pursuant to paragraph 8(a) above.<sup>10</sup>
- (c) The amount to be transferred from the Phase 2 Construction Account to the Phase 2 Construction Payment Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Phase 2 Project Costs that will become due [within a 30-day period from the Transfer Date stated above]<sup>11</sup> [on or prior to Phase 2 Completion]<sup>12</sup>.
- (d) The amount to be transferred from the Phase 2 Construction Account to the Phase 2 Punchlist Retention Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount [together with amounts to be transferred from the Revenue Account to the Phase 2 Punchlist Retention Subaccount pursuant to paragraph 8(e) below] is equal to the total cost of the Phase 2 punchlist items owing to, and as notified by, each Phase 2 Construction Contractor to the Company pursuant to the relevant Phase 2 Construction Contract.<sup>13</sup>
- (e) The amount to be transferred from the Revenue Account to the Phase 2 Punchlist Retention Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the difference between the cost of punchlist items notified by each Phase 2 Construction Contractor to the Borrower pursuant to the relevant Phase 2 Construction Contract and the amount of the transfer made from the Phase 2 Construction Account to the Phase 2 Punchlist Retention Subaccount pursuant to Section 4.02(c)(vii) of the Credit Agreement.<sup>14</sup>
- (f) The amount to be transferred from the Phase 2 Punchlist Retention Subaccount on the Phase 2 Construction Secondary Withdrawal/Transfer Date is \$[\_\_\_\_\_], which amount is equal to the cost of punchlist items then due and payable.<sup>15</sup>
- (g) The amount to be transferred from the Phase 2 Construction Account to the Bechtel Construction Payment Subaccount on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Phase 2 Project Costs that will become due [within a 30-day period from the Transfer Date stated above]<sup>16</sup> [on or prior to Phase 2 Completion]<sup>17</sup> and will not be paid from the Phase 2 Construction Payment Subaccount directly.]

<sup>10</sup> Insert only to the extent that amounts on deposit in Phase 2 Construction Account are insufficient to cover all Phase 2 Project Costs due and payable on the proposed Withdrawal/Transfer Date.

<sup>11</sup> Insert only with respect to transfers occurring prior to Final Funding Date.

<sup>12</sup> Insert only with respect to transfers occurring on or after Final Funding Date.

<sup>13</sup> Insert if applicable.

<sup>14</sup> Insert if applicable.

<sup>15</sup> Insert if applicable.

<sup>16</sup> Insert only with respect to transfers occurring prior to Final Funding Date.

<sup>17</sup> Insert only with respect to transfers occurring on or after Final Funding Date.

9. Payment of Operation and Maintenance Expenses

- (a) The amount to be transferred from the Revenue Account to the Operating Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount [together with amounts to be transferred to the Operating Account from the Phase 1 Construction Account and Phase 2 Construction Account for the payment of Operation and Maintenance Expenses on the Proposed Transfer Date]<sup>18</sup> is equal to the Operation and Maintenance Expenses then due and payable or to become due and payable within the next 30 days, net of any surplus remaining in the Operating Account from prior deposits therein and [without duplication of any amounts transferred pursuant to paragraph 9(b) or 9(c) below]<sup>19</sup>.
- [(b) The amount to be transferred from the Phase 1 Construction Account to the Operating Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Operation and Maintenance Expenses then due and payable or to become due and payable within the next 30 days not otherwise funded from the Revenue Account pursuant to paragraph 9(a) above and net of any surplus remaining in the Operating Account from prior deposits therein.]<sup>20</sup>
- [(c) The amount to be transferred from the Phase 2 Construction Account to the Operating Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the Operation and Maintenance Expenses then due and payable or to become due and payable within the next 30 days not otherwise funded from the Revenue Account pursuant to paragraph 9(a) or funded from the Phase 1 Construction Account pursuant to paragraph 9(b) above and net of any surplus remaining in the Operating Account from prior deposits therein.]<sup>21</sup>
- (d) The current balance on deposit in the Operating Account is \$[\_\_\_\_\_].

10. Payments of Debt Service

- [(a) The amount to be transferred from the Revenue Account to the Debt Service Accrual Account on the on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to (I) one-sixth (1/6<sup>th</sup>) of the Debt Service in respect of the Secured Obligations due on the immediately succeeding Principal Payment Date and (II) all other regularly scheduled Debt Service due or to become due and payable in the next succeeding 30-day period.]<sup>22</sup>

<sup>18</sup> Insert as applicable prior to the Term Conversion Date.

<sup>19</sup> Insert as applicable.

<sup>20</sup> Insert as applicable.

<sup>21</sup> Insert as applicable.

<sup>22</sup> Insert if applicable.

- [(b) The amount to be transferred from the Debt Service Accrual Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to amount due and payable in respect of the Permitted Swap Agreements.]<sup>23</sup>
- [(c) The amount to be transferred from the Debt Service Accrual Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to amount due and payable in respect of all Permitted Indebtedness described in Section 8.16(b) of the Credit Agreement.]<sup>24</sup>
- [(d) The amount to be transferred from the Debt Service Accrual Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to amount due and payable in respect of all Permitted Indebtedness other than the Permitted Indebtedness described in Sections 8.16(a) and 8.16(b) of the Credit Agreement.]<sup>25</sup>
11. Debt Service Reserve Account. The amount to be transferred from the Revenue Account to the Debt Service Reserve Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the excess of (i) the Required Debt Service Reserve Amount minus amounts then on deposit in the Debt Service Reserve Account on the Proposed Transfer Date.]<sup>26</sup>
12. Payment of Income Tax. The amount to be transferred from the Revenue Account to the Income Tax Reserve Account on the Proposed Withdrawal/Transfer Date is \$[\_\_\_\_\_], which amount is equal to one third (1/3<sup>rd</sup>) of the amount that would be due as a quarterly estimated payment in respect of federal income tax and state income and franchise tax liability that would have accrued if the Company were a corporation subject to federal income tax and state income and franchise tax [plus the amount, if necessary, to take into account an increase in the estimated federal and state income tax and franchise liability of the immediately preceding annual tax reporting period] net of any surplus then on deposit in the Income Tax Reserve Account.]<sup>27</sup>
13. Emergency Capital Expenditures. The amount to be transferred from the Revenue Account for the payment of Emergency Capital Expenditures on the [Proposed Transfer Date] [Revenue Account Secondary Withdrawal/Transfer Date] is \$[\_\_\_\_\_].
14. Permitted Capital Expenditures. The amount to be transferred from the Revenue Account for the payment of Permitted Capital Expenditures on the Proposed Withdrawal/Transfer Date is \$[\_\_\_\_\_]. Such Permitted Capital Expenditures have been incurred prior to the Final Maturity Date and are less than \$7,500,000 for the current fiscal year and less than \$25,000,000 in the aggregate.]<sup>28</sup>

<sup>23</sup> Insert if applicable.

<sup>24</sup> Insert if applicable.

<sup>25</sup> Insert if applicable.

<sup>26</sup> Insert if applicable.

<sup>27</sup> Insert if applicable.

<sup>28</sup> Insert if applicable.

- [15. Insurance Proceeds. The amount to be transferred from the Insurance Proceeds Account to [the Company for the purpose of Restoring the Affected Property] [the Debt Service Accrual Account for prepayment of the Loans] [the Company to use in its sole discretion] is \$[\_\_\_\_\_]. [The Company and the Agent and the Agent have received a certificate of the Independent Engineer certifying that the failure to Restore the Affected Property could not reasonably be expected to result in a Material Adverse Effect.]<sup>29</sup><sup>30</sup>
- [16. Distributions.
- (a) The amount to be transferred from the Revenue Account to the Distribution Account on the Proposed Transfer Date is \$[\_\_\_\_\_], which amount is equal to the full remaining amount on deposit in the Revenue Account.]<sup>31</sup>
- (b) The amount to be transferred from the Distribution Account to the Company on the Revenue Secondary Withdrawal/Transfer Date (which date is also a Quarterly Date) is \$[\_\_\_\_\_]. Such distribution is a [Permitted Distribution pursuant to Section 8.12 of the Credit Agreement] [distribution for the purposes of funding Permitted Capital Expenditures of the type referred to in paragraph (c) in the definition thereof].
- [(c) The amount to be transferred from the Distribution Account to the Company with respect to Capacity Reservation Fees is \$[\_\_\_\_\_].]<sup>32</sup>
17. Certifications. THE UNDERSIGNED, ON BEHALF OF THE COMPANY, HEREBY CERTIFIES FOR THE BENEFIT OF EACH SECURED PARTY THAT, as of the date hereof:
- (a) the Company is entitled, pursuant to the terms of Articles III and IV of the Collateral Agency Agreement and **[insert relevant sections of other applicable Financing Documents]**, to request each Phase 1 Construction Account Monthly Transfer, Phase 2 Construction Account Monthly Transfer, Revenue Account Monthly Transfer, Phase 1 Construction Secondary Withdrawal/Transfer, Phase 2 Construction Secondary Withdrawal/Transfer and Revenue Secondary Withdrawal/Transfer in the manner, in the amount and at the times set out in this Withdrawal/Transfer Certificate;
- (b) the Company certifies that each withdrawal and transfer requested herein is for an amount required for, and shall solely be used for, the purpose set forth herein and in the Annexes attached hereto in accordance with the Collateral Agency Agreement and the other Financing Documents;
- (c) the Company is in compliance with the procedures, conditions and requirements set out in the Collateral Agency Agreement and all other applicable Financing

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<sup>29</sup> Insert if applicable.

<sup>30</sup> Insert if applicable.

<sup>31</sup> Insert if applicable.

<sup>32</sup> Insert if applicable.

---

Documents in connection with each Phase 1 Construction Account Waterfall Transfer, Phase 2 Construction Account Waterfall Transfer, Revenue Account Waterfall Transfer, Phase 1 Construction Account Withdrawal/Transfer, Phase 2 Construction Account Withdrawal/Transfer and Revenue Account Withdrawal/Transfer requested herein;

- (d) except to the extent previously disclosed by the Company to the Collateral Agent in writing, no Trigger Event has occurred and is continuing; and
- (e) attached hereto are all other documents and instruments which are required to be annexed hereto pursuant to the Collateral Agency Agreement and any other Financing Document, if any, in connection with the Phase 1 Construction Account Withdrawal/Transfers, Phase 2 Construction Account Withdrawal/Transfers and Revenue Account Withdrawal/Transfers requested herein.<sup>33</sup>

Each of the foregoing certifications shall be deemed to be repeated on each Phase 1 Construction Account Monthly Transfer Date, Phase 2 Construction Account Monthly Transfer Date, Phase 1 Construction Secondary Withdrawal/Transfer Date, Phase 2 Construction Secondary Withdrawal/Transfer Date, Revenue Account Monthly Transfer Date and Revenue Secondary Withdrawal/Transfer Date to which this Withdrawal/Transfer Certificate relates.

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<sup>33</sup> This may include a Distribution Certificate.

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IN WITNESS WHEREOF, the undersigned has executed this Withdrawal/Transfer Certificate on this [ ] day of [ ], [ ].

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

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT A TO  
COLLATERAL AGENCY AGREEMENT



Withdrawals from the Phase 1 Construction Account

Amount to be withdrawn/transferred	Collateral Account or Person to be Transferred to	Purpose
	[Phase 1 EPC Contractor] [or specify other Person or account]	
	Phase 1 Construction Payment Subaccount	
	[Phase 1 Punchlist Retention SubAccount]	
	Revenue Account	
	[Operating Account]	
	[Debt Service Reserve Account]	

**Withdrawals from Collateral Accounts**

<u>Withdrawal/Transfer Date</u>	<u>Amount to be withdrawn/transferred</u>	<u>Collateral Accounts</u>	<u>Recipient</u>	<u>Purpose</u>
---------------------------------	-------------------------------------------	----------------------------	------------------	----------------

Entries marked with a “\*” constitute irrevocable Payment Instructions.

**Withdrawals from the Phase 2 Construction Account**

Amount to be withdrawn/transferred	Collateral Account or Person to be Transferred to	Purpose
	[Phase 2 Construction Contractor] [or specify other Person or account] Phase 2 Construction Payment Subaccount Bechtel Construction Payment Subaccount [Phase 2 Punchlist Retention SubAccount] Revenue Account [Operating Account] [Debt Service Reserve Account]	

**Withdrawals from Collateral Accounts**

<b>Withdrawal/Transfer Date</b>	<b>Amount to be withdrawn/transferred</b>	<b>Collateral Accounts</b>	<b>Recipient</b>	<b>Purpose</b>
---------------------------------	-------------------------------------------	----------------------------	------------------	----------------

Entries marked with a “\*” constitute irrevocable Payment Instructions.

**Withdrawals from the Revenue Account**

Collateral Amount to be withdrawn/transferred	Collateral Account or Person to be Transferred to	Purpose
	[Phase 1 Construction Payment Subaccount]	
	[Phase 1 Punchlist Retention Subaccount]	
	[Phase 2 Construction Payment Subaccount]	
	[Phase 2 Punchlist Retention Subaccount]	
	Revenue Account	
	Operating Account	
	Debt Service Accrual Account	
	[Debt Service Reserve Account]	
	Income Tax Reserve Account	
	[Distribution Account]	

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EXHIBIT A TO  
COLLATERAL AGENCY AGREEMENT

**Withdrawals from Collateral Accounts**

<u>Withdrawal/Transfer Date</u>	<u>Amount to be withdrawn/transferred</u>	<u>Collateral Accounts</u>	<u>Recipient</u>	<u>Purpose</u>
---------------------------------	-------------------------------------------	----------------------------	------------------	----------------

Entries marked with a “\*” constitute irrevocable Payment Instructions.

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EXHIBIT A TO  
COLLATERAL AGENCY AGREEMENT

**FORM OF DISTRIBUTION CERTIFICATE**

*[Pursuant to Section 4.08 of the Collateral Agency Agreement]*

Date of this Distribution

Certificate: \_\_\_\_\_

[Transfer Date/Disbursement

Date \_\_\_\_\_]

HSBC Bank USA, National Association  
as Collateral Agent  
452 Fifth Avenue  
New York, NY 10018  
Attn: Corporate Trust

Ladies and Gentlemen:

This Distribution Certificate is delivered to you pursuant to Section 4.08 of the Amended and Restated Collateral Agency Agreement (as amended, supplemented or modified and in effect from time to time, the "Collateral Agency Agreement") dated as of [\_\_\_\_], 2006 among HSBC Bank USA, National Association, in its capacity as collateral agent (together with its successors and permitted assigns in such capacity, the "Collateral Agent") and securities intermediary, Société Générale, in its capacity as agent (the "Agent") and Sabine Pass LNG, L.P. (the "Company"). Reference is also made to the Amended and Restated Credit Agreement dated as of [\_\_\_\_], 2006 (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") among the Company, each of the lenders from time to time party to the Credit Agreement (the "Lenders"), the Agent and the Collateral Agent. Capitalized terms used but not defined herein shall have the respective meanings assigned thereto in the Collateral Agency Agreement (or if not defined therein, in the Credit Agreement).

The undersigned is an Authorized Officer of the Company and has read and is familiar with the provisions of the Collateral Agency Agreement and the other Financing Documents that are relevant to the furnishing of this Distribution Certificate. With respect to the information herein, the undersigned has made such examination or investigation as was, in the reasonable opinion of the undersigned, necessary to enable the undersigned to express an opinion as to the accuracy of such information.

The undersigned, on behalf of the Company, hereby certifies for the benefit of each Secured Party as of the date hereof as to the matters set out in paragraphs 1 through 4 below.

1. This Distribution Certificate is being provided to you at least five Business Days prior to the Disbursement Date set out above (the "Proposed Transfer Date").

EXHIBIT B TO  
COLLATERAL AGENCY AGREEMENT

- 
2. Each of the following conditions have been satisfied and the Company has no reason to believe that any such condition will not be satisfied both immediately before and immediately after the making of the proposed Restricted Payment(s):
- (a) the first Principal Payment Date has occurred or shall be concurrent with the Proposed Transfer Date;
  - (b) [no Default or Event of Default has occurred and is continuing or will occur as a consequence of such Restricted Payment]<sup>4</sup>;
  - (c) the Debt Service Reserve Account is fully funded in an amount at least equal to the Required Debt Service Reserve Amount;
  - (d) the Debt Service Coverage Ratio for the most recent calendar quarter is not less than 1.25 to 1.0;
  - (e) the Company hereby certifies that:
    - (I) each of the foregoing conditions has been or shall be satisfied as of the Proposed Transfer Date; and
    - (II) attached as Annex I are the detailed calculations for computing the Debt Service Coverage Ratio referred to in clause 2(d) above and such calculations were prepared in good faith and were based on reasonable assumptions.
3. The Company hereby agrees that if any event shall occur on or prior to the Proposed Transfer Date that shall render the statement certified in paragraph 2 or 4 false or misleading, the Company shall give the Collateral Agent notice of any such event on the same date as the date on which the Company knows or should reasonably have known of such event.
4. The Company is in compliance with the procedures, conditions and requirements set out in all the applicable Financing Documents in connection with the proposed distribution requested herein.

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<sup>34</sup> Note that this certification is the only certification required to be given by the Company in connection with distributions under Section 4.08(c) of the Collateral Agency Agreement.



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IN WITNESS WHEREOF, the undersigned has executed this Withdrawal/Transfer Certificate on this [ ] day of [ ], [ ].

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

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT B TO  
COLLATERAL AGENCY AGREEMENT

CALCULATION OF DEBT SERVICE COVERAGE RATIOS

- 4 -

EXHIBIT B TO  
COLLATERAL AGENCY AGREEMENT

## [FORM OF SECURED PARTY ADDITION AGREEMENT]

Reference is made to (i) that certain Amended and Restated Collateral Agency Agreement, dated as of [\_\_\_\_], 2006 (the “**Collateral Agency Agreement**”), among HSBC Bank USA, National Association, in its capacity as Collateral Agent, Société Générale, in its capacity as Agent and Sabine Pass LNG, LP, as Borrower and (ii) that certain Security Agreement, dated as of February 25, 2005, among the Collateral Agent, the Agent and the Borrower.

The undersigned hereby agrees to be bound by, and to benefit from, the Security Agreement and the Collateral Agency Agreement as if a party thereof.

Date: \_\_\_\_\_

[Insert Name of Party to be Added]

By: \_\_\_\_\_

Name:

Title:

Address for Notes:

Attention:

Tel. No.:

Fax No.:

EXHIBIT C TO  
COLLATERAL AGENCY AGREEMENT

AMENDMENT AGREEMENT

AMENDMENT AGREEMENT (this "Amendment Agreement"), dated as of July 21, 2006 between **HSBC Bank USA, National Association** ("Party A") and **Sabine Pass LNG, L.P.** ("Party B"). All capitalized terms used herein and not otherwise defined shall have the respective meanings provided in the ISDA Master Agreement referred to below.

WITNESSETH:

WHEREAS, Party A and Party B are parties to an ISDA Master Agreement, dated as of February 25, 2005 (as amended, modified or supplemented from time to time, the "Master Agreement");

WHEREAS, Party A and Party B wish to amend the Master Agreement as herein provided;

NOW, THEREFORE, it is agreed:

1. Part 1(i)(i) of the Schedule to the Master Agreement is hereby amended by deleting the words "Credit Agreement dated as of February 25, 2005" and substituting the words "First Amended and Restated Credit Agreement dated as of July 21, 2006" in lieu thereof.

2. Part 5(e)(vi) of the Schedule to the Master Agreement is hereby amended by deleting the word "Nominal" and substituting the word "Notional" in lieu thereof.

3. This Amendment Agreement is limited as specified and shall not constitute a modification, acceptance or waiver of any other provision of the Master Agreement.

4. This Amendment Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which counterparts when executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A complete set of counterparts shall be lodged with Party A and Party B.

5. This Amendment Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of New York (without reference to choice of law doctrine).

6. This Amendment Agreement shall become effective on the date when Party A and Party B shall have signed a copy hereof (whether the same or different copies) and delivered (including by way of telecopier) the same to each other.

---

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Amendment Agreement to be duly executed and delivered as of the date first above written.

**HSBC BANK USA,  
NATIONAL ASSOCIATION**

By: /s/ Sandra Nicotra  
Name: Sandra Nicotra  
Title: Vice President

**SABINE PASS LNG LP**

By: /s/ Graham McArthur  
Name: Graham McArthur  
Title: Treasurer

AMENDMENT AGREEMENT

AMENDMENT AGREEMENT (this "Amendment Agreement"), dated as of July 21, 2006 between **Societe Generale, New York Branch** ("Party A") and **Sabine Pass LNG, L.P.** ("Party B"). All capitalized terms used herein and not otherwise defined shall have the respective meanings provided in the ISDA Master Agreement referred to below.

WITNESSETH:

WHEREAS, Party A and Party B are parties to an ISDA Master Agreement, dated as of February 25, 2005 (as amended, modified or supplemented from time to time, the "Master Agreement");

WHEREAS, Party A and Party B wish to amend the Master Agreement as herein provided;

NOW, THEREFORE, it is agreed:

1. Part 1(i)(i) of the Schedule to the Master Agreement is hereby amended by deleting the words "Credit Agreement dated as of February 25, 2005" and substituting the words "First Amended and Restated Credit Agreement dated as of July 21, 2006" in lieu thereof.

2. Part 5(e)(vi) of the Schedule to the Master Agreement is hereby amended by deleting the word "Nominal" and substituting the word "Notional" in lieu thereof.

3. This Amendment Agreement is limited as specified and shall not constitute a modification, acceptance or waiver of any other provision of the Master Agreement.

4. This Amendment Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which counterparts when executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A complete set of counterparts shall be lodged with Party A and Party B.

5. This Amendment Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of New York (without reference to choice of law doctrine).

6. This Amendment Agreement shall become effective on the date when Party A and Party B shall have signed a copy hereof (whether the same or different copies) and delivered (including by way of telecopier) the same to each other.

---

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Amendment Agreement to be duly executed and delivered as of the date first above written.

**SOCIETE GENERALE,  
NEW YORK BRANCH**

By: /s/ Leon Valera  
Name: Leon Valera  
Title: Director

**SABINE PASS LNG, L.P.**

By: /s/ Graham McArthur  
Name: Graham McArthur  
Title: Treasurer



HSBC Bank USA, National Association  
452 Fifth Avenue  
New York, NY 10018  
Fax: (212) 525-0673

July 21, 2006

Sabine Pass LNG, L.P.  
717 Texas Ave.  
Houston, TX 77002

Attn: Graham McArthur  
Phone: 832-204-2290  
Fax: 713-659-5459  
Email: gmcarthur@cheniere.com

Dear Sir or Madam:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date specified below (the "Transaction"). This Confirmation constitutes a "Confirmation" as referred to in the Agreement specified below.

1. The definitions and provisions contained in the 2000 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc. are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms part of, and is subject to the 1992 ISDA Master Agreement dated as of February 25, 2005, as amended and supplemented from time to time (the "Agreement"), between HSBC Bank USA, National Association ("Party A") and Sabine Pass LNG, L.P. ("Party B"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

Each of Party A and Party B represents to the other that it has entered into this Transaction in reliance upon such tax, accounting, regulatory, legal, and financial advice as it deems necessary and not upon any view expressed by the other.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

Notional Amount:	As set forth in Exhibit I, which is attached hereto and incorporated by reference into this Confirmation
Trade Date:	July 21, 2006
Effective Date:	October 25, 2006
Termination Date:	March 25, 2009, subject to adjustment in accordance with the Modified Following Business Day Convention



Fixed Amounts:

Fixed Rate Payer:	Party B
Fixed Rate Payer	
Payment Dates:	The 25th calendar day of each March and September, commencing on March 25, 2007 and ending on the Termination Date, inclusive, subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Rate:	5.690000 %
Fixed Rate	
Day Count Fraction:	Actual/360

Floating Amounts:

Floating Rate Payer:	Party A
Floating Rate Payer	
Payment Dates:	The 25th calendar day of each March and September, commencing on March 25, 2007 and ending on the Termination Date, inclusive, subject to adjustment in accordance with the Modified Following Business Day Convention
Floating Rate Option:	USD-LIBOR-BBA
Floating Rate for initial	
Calculation Period:	To be determined
Designated Maturity:	One month
Spread:	None
Floating Rate	
Day Count Fraction:	Actual/360
Reset Dates:	The first day of each Calculation Period or Compounding Period if Compounding is applicable
Compounding:	Inapplicable

Business Days:	London and New York
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Calculation Agent:	Party A
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3. Account Details:

Payments to Party A:

HSBC Bank USA  
ABA # 021-001-088  
For Credit to Department 299  
A/C: 000-04929-8  
HSBC Derivative Products Group

Payments to Party B:

Please advise

4. Office:

Party A is acting through its New York Office for the purposes of this Transaction.

5. Please confirm that the forgoing correctly sets forth the terms of our agreement by having an authorized officer sign this Confirmation and return it via facsimile to:

HSBC Bank USA, National Association  
Swap Documentation  
Attention: Christian McGreevy  
Telephone: (212) 525-8710  
Fax: (212) 525-5517

Please direct all settlement inquiries to:

HSBC Bank USA, National Association  
Derivative Settlements  
Attention: Jeffrey Lombino  
Telephone: (212) 525-5393  
Fax: (212) 525-0561

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HSBC Bank USA, National Association

This message will be the only form of Confirmation dispatched by us. Please execute and return it to us by facsimile immediately. If you wish to exchange hard copy forms of this Confirmation, please contact us.

Yours sincerely,

HSBC BANK USA, NATIONAL ASSOCIATION

By: Dennis J. Nevins  
Authorized Signature

By: /s/ Tiffany Moncrieffe  
Authorized Signature

Confirmed as of the date first written above:

SABINE PASS LNG, L.P.

By: /s/ Graham McArthur  
Name: Graham McArthur  
Title: Treasurer

Attachment

## Exhibit I

For the Calculation Periods		Notional Amount in USD:
From and including:*	To but excluding:*	
The Effective Date	November 25, 2006	10,338,933.00
November 25, 2006	December 25, 2006	22,907,984.00
December 25, 2006	January 25, 2007	28,574,269.00
January 25, 2007	February 25, 2007	37,895,858.00
February 25, 2007	March 25, 2007	46,826,584.00
March 25, 2007	April 25, 2007	60,570,346.00
April 25, 2007	May 25, 2007	70,193,862.00
May 25, 2007	June 25, 2007	88,165,136.00
June 25, 2007	July 25, 2007	93,981,320.00
July 25, 2007	August 25, 2007	105,327,117.00
August 25, 2007	September 25, 2007	111,713,348.00
September 25, 2007	October 25, 2007	119,675,507.00
October 25, 2007	November 25, 2007	125,443,591.00
November 25, 2007	December 25, 2007	141,914,888.00
December 25, 2007	January 25, 2008	142,634,770.00
January 25, 2008	February 25, 2008	148,153,701.00
February 25, 2008	March 25, 2008	155,028,058.00
March 25, 2008	April 25, 2008	157,590,065.00
April 25, 2008	May 25, 2008	163,504,040.00
May 25, 2008	June 25, 2008	183,468,801.00
June 25, 2008	July 25, 2008	189,220,065.00
July 25, 2008	August 25, 2008	195,670,330.00
August 25, 2008	September 25, 2008	201,152,786.00
September 25, 2008	October 25, 2008	206,376,309.00
October 25, 2008	November 25, 2008	212,117,347.00
November 25, 2008	December 25, 2008	230,844,731.00
December 25, 2008	January 25, 2009	231,877,311.00
January 25, 2009	February 25, 2009	233,268,170.00
February 25, 2009	The Termination Date	275,000,000.00

\* All dates listed above (with the exception of the Effective Date), are subject to adjustment in accordance with the Modified Following Business Day Convention



HSBC Bank USA, National Association  
452 Fifth Avenue  
New York, NY 10018  
Fax: (212) 525-0673

July 21, 2006

Sabine Pass LNG, L.P.  
717 Texas Ave.  
Houston, TX 77002

Attn: Graham McArthur  
Phone: 832-204-2290  
Fax: 713-659-5459  
Email: gmcArthur@cheniere.com

Dear Sir or Madam:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date specified below (the "Transaction"). This Confirmation constitutes a "Confirmation" as referred to in the Agreement specified below.

1. The definitions and provisions contained in the 2000 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc. are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms part of, and is subject to the 1992 ISDA Master Agreement dated as of February 25, 2005, as amended and supplemented from time to time (the "Agreement"), between HSBC Bank USA, National Association ("Party A") and Sabine Pass LNG, L.P. ("Party B"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

Each of Party A and Party B represents to the other that it has entered into this Transaction in reliance upon such tax, accounting, regulatory, legal, and financial advice as it deems necessary and not upon any view expressed by the other.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

Notional Amount:	As set forth in Exhibit I, which is attached hereto and incorporated by reference into this Confirmation
Trade Date:	July 21, 2006
Effective Date:	March 25, 2009
Termination Date:	July 1, 2015, subject to adjustment in accordance with the Modified Following Business Day Convention

Fixed Amounts:

Fixed Rate Payer:	Party B
Fixed Rate Payer	
Payment Dates:	The 25th calendar day of each March and September, commencing on September 25, 2009 and ending on the Termination Date, inclusive, subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Rate:	5.690000 %
Fixed Rate	
Day Count Fraction:	Actual/360

Floating Amounts:

Floating Rate Payer:	Party A
Floating Rate Payer	
Payment Dates:	The 25th calendar day of each March and September, commencing on September 25, 2009 and ending on the Termination Date, inclusive, subject to adjustment in accordance with the Modified Following Business Day Convention
Floating Rate Option:	USD-LIBOR-BBA
Floating Rate for initial	
Calculation Period:	To be determined
Designated Maturity:	Six months, provided however, for the final Calculation Period, the Designated Maturity shall be the Linear Interpolation of three months and four months
Spread:	None
Floating Rate	
Day Count Fraction:	Actual/360
Reset Dates:	The first day of each Calculation Period or Compounding Period if Compounding is applicable
Compounding:	Inapplicable
Business Days:	London and New York

Calculation Agent: Party A

3. Account Details:

Payments to Party A: HSBC Bank USA  
ABA # 021-001-088  
For Credit to Department 299  
A/C: 000-04929-8  
HSBC Derivative Products Group

Payments to Party B: Please advise

4. Office:

Party A is acting through its New York Office for the purposes of this Transaction.

5. Please confirm that the forgoing correctly sets forth the terms of our agreement by having an authorized officer sign this Confirmation and return it via facsimile to:

HSBC Bank USA, National Association  
Swap Documentation  
Attention: Christian McGreevy  
Telephone: (212) 525-8710  
Fax: (212) 525-5517

Please direct all settlement inquiries to:

HSBC Bank USA, National Association  
Derivative Settlements  
Attention: Jeffrey Lombino  
Telephone: (212) 525-5393  
Fax: (212) 525-0561

---

HSBC Bank USA, National Association

This message will be the only form of Confirmation dispatched by us. Please execute and return it to us by facsimile immediately. If you wish to exchange hard copy forms of this Confirmation, please contact us.

Yours sincerely,

HSBC BANK USA, NATIONAL ASSOCIATION

By: /s/ Dennis J. Nevins  
Authorized Signature

By: /s/ Tiffany Moncrieffe  
Authorized Signature

Confirmed as of the date first written above:

SABINE PASS LNG, L.P.

By: /s/ Graham McArthur  
Name: Graham McArthur  
Title: Treasurer

Attachment



**Exhibit I**

<b>For the Calculation Periods</b>		<b>Notional Amount in USD:</b>
<b>From and including:*</b>	<b>To but excluding:*</b>	
The Effective Date	September 25, 2009	275,000,000.00
September 25, 2009	March 25, 2010	279,668,745.00
March 25, 2010	September 25, 2010	284,495,060.00
September 25, 2010	March 25, 2011	289,484,264.00
March 25, 2011	September 25, 2011	294,641,853.00
September 25, 2011	March 25, 2012	299,973,510.00
March 25, 2012	September 25, 2012	625,000,000.00
September 25, 2012	March 25, 2013	625,000,000.00
March 25, 2013	September 25, 2013	323,472,096.00
September 25, 2013	March 25, 2014	316,642,080.00
March 25, 2014	September 25, 2014	309,601,618.00
September 25, 2014	March 25, 2015	302,303,968.00
March 25, 2015	The Termination Date	294,766,974.00

\* All dates listed above (with the exception of the Effective Date), are subject to adjustment in accordance with the Modified Following Business Day Convention



July 21, 2006

To: Sabine Pass LNG, L.P.  
 Attn: Mr. Graham McArthur  
 717 Texas Avenue  
 Houston, TX 77002  
 Tel: (832) 204-2290  
 Fax: (713) 659-5459

From: Societe Generale, New York  
 Attn: IRD Documentation  
 Tel: 212-278-7145 / 7087 / 7182  
 Fax: 212-278-7650

Re: SGN Ref # DFP0613413

Dear Mr. McArthur:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Swap Transaction entered into between us on the Trade Date specified below (the "Transaction").

The definitions and provisions contained in the 2000 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. ("ISDA") are incorporated in this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

This Confirmation constitutes a "Confirmation" as referred to in, and supplements, forms part of and is subject to, the 1992 ISDA Master Agreement dated as of February 25, 2005, as amended and supplemented from time to time (the "Agreement"), between Societe Generale, New York Branch ("Party A") and Sabine Pass LNG, L.P. ("Party B"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

1. The terms of the particular Transaction to which this Confirmation relates are as follows:

Notional Amount:	<b>See attached Notional Schedule</b>
Trade Date:	July 21, 2006
Effective Date:	October 25, 2006
Termination Date:	March 25, 2009, subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Amounts:	
Fixed Rate Payer:	Party B

---

Fixed Rate Payer Payment Dates:	The 25 <sup>th</sup> of each March and September, commencing March 25, 2007, up to and including the Termination Date, subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Rate:	5.690%
Fixed Rate Day Count Fraction:	Actual/360
Floating Amounts:	
Floating Rate Payer:	Party A
Floating Rate Payer Payment Dates:	The 25 <sup>th</sup> of each March and September, commencing March 25, 2007, up to and including the Termination Date, subject to adjustment in accordance with the Modified Following Business Day Convention
Floating Rate Option:	USD-LIBOR-BBA
Floating Rate for initial Calculation Period:	To be determined
Designated Maturity:	One month
Spread:	None
Floating Rate Day Count Fraction:	Actual/360
Reset Dates:	The first day of each Calculation Period
Method of Averaging:	Weighted
Compounding:	Inapplicable
Business Days:	New York and London
Calculation Agent:	Party A, or as stated in the Agreement

2. Account Details

Payments to Party A: Federal Reserve Bank of New York  
ABA 026-004-226  
F/O Societe Generale, NY  
Account No.: 9020721

Payments to Party B: **PLEASE ADVISE**

3. Offices:

- (a) The Office of Party A for the Transaction is New York; and
- (b) The Office of Party B for the Transaction is Houston, Texas.

4. Non-Reliance:

Each party represents that (i) it is not relying upon any advice (whether written or oral) of the other party to this Transaction, other than the representations expressly set forth in the Agreement or this Confirmation; (ii) it has made its own decisions in entering into this Transaction based upon advice from such professional advisors as it has deemed necessary; and (iii) it understands the terms, conditions and risks of this Transaction and is willing to assume (financially and otherwise) those risks.

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing one copy of this Confirmation and returning it to us.

Yours sincerely,

SOCIETE GENERALE,  
NEW YORK BRANCH

By: /s/ Liliana Gowdie  
Name: Liliana Gowdie  
Title: Vice President

By: /s/ Stacey Hughes  
Name: Stacey Hughes  
Title: Managing Director

Confirmed as of the date first written above:

SABINE PASS LNG, L.P.

By: /s/ Graham McArthur  
Name: Graham McArthur  
Title: Treasurer

**NOTIONAL SCHEDULE**

<u>Period Start Date</u>	<u>Period End Date</u>	<u>Rate Reset Date</u>	<u>Payment Date</u>	<u>Notional Amount (USD)</u>
10/25/2006	11/27/2006	10/23/2006		10,338,933
11/27/2006	12/27/2006	11/23/2006		22,907,984
12/27/2006	1/25/2007	12/21/2006		28,574,269
1/25/2007	2/26/2007	1/23/2007		37,895,858
2/26/2007	3/26/2007	2/22/2007	3/26/2007	46,826,584
3/26/2007	4/25/2007	3/22/2007		60,570,346
4/25/2007	5/25/2007	4/23/2007		70,193,862
5/25/2007	6/25/2007	5/23/2007		88,165,136
6/25/2007	7/25/2007	6/21/2007		93,981,320
7/25/2007	8/28/2007	7/23/2007		105,327,117
8/28/2007	9/25/2007	8/23/2007	9/25/2007	111,713,348
9/25/2007	10/25/2007	9/21/2007		119,675,507
10/25/2007	11/26/2007	10/23/2007		125,443,591
11/26/2007	12/27/2007	11/22/2007		141,914,888
12/27/2007	1/25/2008	12/21/2007		142,634,770
1/25/2008	2/25/2008	1/23/2008		148,153,701
2/25/2008	3/25/2008	2/21/2008	3/25/2008	155,028,058
3/25/2008	4/25/2008	3/19/2008		157,590,065
4/25/2008	5/27/2008	4/23/2008		163,504,040
5/27/2008	6/25/2008	5/22/2008		183,468,801
6/25/2008	7/25/2008	6/23/2008		189,220,065
7/25/2008	8/26/2008	7/23/2008		195,670,330
8/26/2008	9/25/2008	8/21/2008	9/25/2008	201,152,786
9/25/2008	10/27/2008	9/23/2008		206,376,309
10/27/2008	11/25/2008	10/23/2008		212,117,347
11/25/2008	12/29/2008	11/21/2008		230,844,731
12/29/2008	1/26/2009	12/23/2008		231,877,311
1/26/2009	2/25/2009	1/22/2009		233,268,170
2/25/2009	3/25/2009	2/23/2009	3/25/2009	275,000,000

July 21, 2006

To: Sabine Pass LNG, L.P.  
Attn: Mr. Graham McArthur  
717 Texas Avenue  
Houston, TX 77002  
Tel: (832) 204-2290  
Fax: (713) 659-5459

From: Societe Generale, New York  
Attn: IRD Documentation  
Tel: 212-278-7145 / 7087 / 7182  
Fax: 212-278-7650

Re: SGN Y Ref # DFP0613416

Dear Mr. McArthur:

The purpose of this letter agreement (this "Confirmation") is to confirm the terms and conditions of the Swap Transaction entered into between us on the Trade Date specified below (the "Transaction").

The definitions and provisions contained in the 2000 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. ("ISDA") are incorporated in this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

This Confirmation constitutes a "Confirmation" as referred to in, and supplements, forms part of and is subject to, the 1992 ISDA Master Agreement dated as of February 25, 2005, as amended and supplemented from time to time (the "Agreement"), between Societe Generale, New York Branch ("Party A") and Sabine Pass LNG, L.P. ("Party B"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

1. The terms of the particular Transaction to which this Confirmation relates are as follows:

Notional Amount:	<b>See attached Notional Schedule</b>
Trade Date:	July 21, 2006
Effective Date:	March 25, 2009
Termination Date:	July 1, 2015, subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Amounts:	
Fixed Rate Payer:	Party B

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Fixed Rate Payer Payment Dates:	The 25 <sup>th</sup> of each March and September, commencing September 25, 2009, up to and including the Termination Date, subject to adjustment in accordance with the Modified Following Business Day Convention
Fixed Rate:	5.690%
Fixed Rate Day Count Fraction:	Actual/360
Floating Amounts:	
Floating Rate Payer:	Party A
Floating Rate Payer Payment Dates:	The 25 <sup>th</sup> of each March and September, commencing September 25, 2009, up to and including the Termination Date, subject to adjustment in accordance with the Modified Following Business Day Convention
Floating Rate Option:	USD-LIBOR-BBA
Floating Rate for initial Calculation Period:	To be determined
Designated Maturity:	Six month, except for the final Calculation Period which shall be linearly interpolated
Spread:	None
Floating Rate Day Count Fraction:	Actual/360
Reset Dates:	The first day of each Calculation Period
Compounding:	Inapplicable
Business Days:	New York and London
Calculation Agent:	Party A, or as stated in the Agreement

## 2. Account Details

Payments to Party A:	Federal Reserve Bank of New York ABA 026-004-226 F/O Societe Generale, NY Account No.: 9020721
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## 3. Offices:

- (a) The Office of Party A for the Transaction is New York; and
- (b) The Office of Party B for the Transaction is Houston, Texas.

## 4. Non-Reliance:

Each party represents that (i) it is not relying upon any advice (whether written or oral) of the other party to this Transaction, other than the representations expressly set forth in the Agreement or this Confirmation; (ii) it has made its own decisions in entering into this Transaction based upon advice from such professional advisors as it has deemed necessary; and (iii) it understands the terms, conditions and risks of this Transaction and is willing to assume (financially and otherwise) those risks.

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing one copy of this Confirmation and returning it to us.

Yours sincerely,

SOCIETE GENERALE,  
NEW YORK BRANCH

By: /s/ Liliana Gowdie  
Name: Liliana Gowdie  
Title: Vice President

By: /s/ Stacey Hughes  
Name: Stacey Hughes  
Title: Managing Director

Confirmed as of the date first written above:

SABINE PASS LNG, L.P.

By: /s/ Graham McArthur  
Name: Graham McArthur  
Title: Treasurer



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**NOTIONAL SCHEDULE**

<b>Period Start Date</b>	<b>Period End Date</b>	<b>Notional Amount (USD)</b>
3/25/2009	9/25/2009	275,000,000.00
9/25/2009	3/25/2010	279,668,745.00
3/25/2010	9/27/2010	284,495,060.00
9/27/2010	3/25/2011	289,484,264.00
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9/26/2011	3/26/2012	299,973,510.00
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9/25/2012	3/25/2013	625,000,000.00
3/25/2013	9/25/2013	323,472,096.00
9/25/2013	3/25/2014	316,642,080.00
3/25/2014	9/25/2014	309,601,618.00
9/25/2014	3/25/2015	302,303,968.00
3/25/2015	7/1/2015	294,766,974.00

**AGREEMENT**  
**FOR**  
**ENGINEERING, PROCUREMENT, CONSTRUCTION AND**  
**MANAGEMENT OF CONSTRUCTION SERVICES**  
**of the**  
**SABINE PASS LNG**  
**PHASE 2 RECEIVING, STORAGE AND REGASIFICATION TERMINAL EXPANSION**  
**between**  
**SABINE PASS LNG, L.P.**  
**and**  
**BECHTEL CORPORATION**

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**AGREEMENT FOR  
ENGINEERING, PROCUREMENT, CONSTRUCTION AND  
MANAGEMENT OF CONSTRUCTION SERVICES  
OF THE SABINE PASS LNG  
PHASE 2 RECEIVING, STORAGE AND REGASIFICATION TERMINAL EXPANSION**

THIS AGREEMENT ("Agreement") is entered into as of the \_\_\_ day of July, 2006 (the "Effective Date"), by and between **Sabine Pass LNG, L.P.**, a Delaware limited partnership, having its principal place of business at 717 Texas Avenue, Suite 3100, Houston, Texas 77002 (hereinafter called "Company") and **Bechtel Corporation**, a Nevada corporation, having an address at 3000 Post Oak Boulevard, Houston, Texas 77056 (hereinafter called "Bechtel").

**ARTICLE 1 THE PHASE 2 PROJECT**

The Phase 2 Project will be located on the Phase 2 Site provided by Company and consists of the engineering, procurement, construction and pre-commissioning of an expansion to the Phase 1 Facility.

The Services to be performed by Bechtel on the Phase 2 Project are set forth in this Agreement, including Article 4 and Attachment A.

**ARTICLE 2 DEFINITIONS**

Standard terms used throughout this Agreement shall have the meanings hereby assigned to them:

2.1 "AAA" has the meaning set forth in Section 27.2.

2.2 "AAA Rules" has the meaning set forth in Section 27.2.

2.3 "Affiliate" means any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party. For purposes of this definition, "control" 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.

2.4 "Agreement" means this Agreement for Engineering, Procurement, Construction and Management of Construction Services of the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion between Sabine Pass LNG, L.P. and Bechtel Corporation, including any Attachments and Schedules attached hereto, which are incorporated herein by reference.

2.5 "Applicable Codes and Standards" means any and all codes, standards or requirements applicable to the Services or the Phase 2 Project set forth or listed in Attachment A, in any Applicable Law, or which are set forth or listed in any document or drawing listed in Attachment A, which codes, standards and requirements shall govern Bechtel's performance of the Services, as provided herein.

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2.6 “Applicable Law” means all laws, statutes, ordinances, orders, decrees, injunctions, licenses, permits, approvals, rules and regulations, codes and standards (including Applicable Codes and Standards) including any conditions thereto, of any Governmental Instrumentality having jurisdiction over all or any portion of the Phase 2 Site or the Phase 2 Project or performance of all or any portion of the Services or the operation of the Phase 2 Facility, or other legislative or administrative action of a Governmental Instrumentality, or a final decree, judgment or order of a court which relates to the performance of the Services or other construction work for the Phase 2 Project.

2.7 “Approval” or “Approved” as it relates to Company approval means written approval.

2.8 “Authorized Representative” has the meaning set forth in Section 4.2.

2.9 “Balance of Plant” or “BOP” means all Systems of the Phase 2 Facility except the Phase 2 Tanks.

2.10 “Bechtel” means Bechtel Corporation together with its successors and permitted assignees.

2.11 “Bechtel Group” means (i) Bechtel and its Affiliates and (ii) the respective directors, officers, agents, employees, representatives of each Person specified in clause (i) above.

2.12 “Bechtel Holiday” has the meaning set forth in Attachment H.

2.13 “Bechtel’s Intellectual Property” shall have the meaning set forth in Section 16.1.1.

2.14 “Bechtel Subcontract” means any agreement executed by Bechtel with any Bechtel Subcontractor for any portion of the Services for the Phase 2 Project.

2.15 “Bechtel Subcontractors” mean subcontractors, sub-subcontractors, suppliers and vendors that enter into direct or indirect contracts with Bechtel, including Bechtel’s Affiliates or related companies, to provide a portion of the Services for the Phase 2 Project. The phrase “Bechtel and its Subcontractors” means Bechtel and Bechtel Subcontractors.

2.16 “Bechtel’s Confidential Information” has the meaning set forth in Section 17.2.

2.17 “BEO” has the meaning set forth in Section 4.12.

2.18 “Change Order” means a written order issued by Company to Bechtel to change the Services, whether by deduction, addition or otherwise, and/or a mutually executed document modifying the Fixed Fee in accordance with the requirements of Article 7.

2.19 “Company Contract” means any agreement executed by Company with any Company Contractor for the performance of any portion of the construction work or the provision of materials, equipment or services for the Phase 2 Project.

---

2.20 “Company Contractor” means any contractor, supplier or vendor that enters into contracts with Company to provide construction work, materials, equipment or services for the Phase 2 Project.

2.21 “Company Contractor Payment Account” has the meaning set forth in Section 4.10.1.3.3.

2.22 “Company Group” means (i) Company, its parent, Lender, and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above.

2.23 “Company Vendor” means any Company Contractor who has entered into a Company Contract solely to supply equipment for the Phase 2 Project and not to perform any construction or installation work at the Phase 2 Site.

2.24 “Company’s Confidential Information” has the meaning set forth in Section 17.1.

2.25 “Confidential Information” has the meaning set forth in Section 17.3.

2.26 “Concurrent Funding Request” has the meaning set forth in Section 8.1.

2.27 “Consequential Damages” has the meaning set forth in Section 13.2.1.

2.28 “Corrective Services” has the meaning set forth in Section 13.1.2

2.29 The term “day(s),” “week(s)” and “month(s)” means calendar day(s), week(s) and month(s) unless otherwise expressly states.

2.30 “Default” has the meaning set forth in Section 20.2.1.

2.31 “Defect” or “Defective” has the meaning set forth in Section 13.1.1.

2.32 “Defect Correction Period” has the meaning set forth in Section 13.1.2

2.33 “Disclosing Party” has the meaning set forth in Section 17.3.

2.34 “Discretionary Bonus” has the meaning set forth in Section 6.3.

2.35 “Dispute” has the meaning set forth in Section 27.1.

2.36 “Dispute Notice” has the meaning set forth in Section 27.1.

2.37 “FERC” means the Federal Energy Regulatory Commission.

2.38 “FERC Authorization” means the authorization given by the FERC on June 15, 2006, granting to Company the approvals requested in that certain application filed by Company with the FERC on July 29, 2005, in Docket No. CP05-396-000 (as may be amended from time to time) pursuant to Section 3(a) of the Natural Gas Act and the corresponding regulations of the FERC.

2.39 "Final Acceptance" means that all Services to be performed by Bechtel or its Subcontractors and all work to be performed by Company Contractors and all other obligations under this Agreement (except for Services and obligations that survive the termination or expiration of this Agreement, including obligations for Warranties and correction of Defective Services) are fully and completely performed in accordance with the terms of this Agreement, including: (i) the achievement of Provisional Acceptance (BOP), Provisional Acceptance (Tank S-104) and Provisional Acceptance (Tank S-105); (ii) the completion of all Punchlist items, except those Punchlist items that Company has expressly in writing excused Bechtel or Company Contractors from performing; (iii) delivery by Bechtel to Company of a fully executed final conditional lien and claim waiver in the form of Attachment I, Schedule I-3; (iv) delivery by Bechtel of fully executed final conditional lien and claim waivers from all Major Bechtel Subcontractors in the form of Attachment I, Schedule I-4; (v) delivery by all Company Contractors and their subcontractors of conditional or unconditional final lien and claim waivers as required by the applicable Company Contracts; (vi) delivery by Bechtel to Company of all documentation required to be delivered under this Agreement as a prerequisite of achievement of Final Acceptance; (vii) unless otherwise instructed by Company pursuant to Section 18.2, removal from the Phase 2 Site of all of the personnel, supplies, waste, materials, rubbish, and temporary facilities of Bechtel, Bechtel Subcontractors and Company Contractors; and (viii) delivery by Bechtel to Company of all remaining consumable spare parts and capital spare parts purchased by Bechtel or its Subcontractors and still in Bechtel's or its Subcontractors' possession; (ix) delivery by Bechtel to Company of a Notice of Final Acceptance as required under Section 11.6.

2.40 "Fixed Fee" has the meaning set forth in Section 6.2.

2.41 "Force Majeure" has the meaning set forth in Section 19.2.

2.42 "GAAP" means generally accepted accounting principles.

2.43 "Good Engineering and Construction Management Practices" or "GECMP" means the generally accepted practices, skill, care, methods, techniques and standards employed by the international LNG industry at the time of the Effective Date that are commonly used in prudent design, engineering, procurement, construction, EPC management, and related technical and administrative services in connection with construction, procurement and pre-commissioning of LNG related facilities of similar size and type as the Phase 2 Facility, in accordance with Applicable Law and Applicable Codes and Standards.

2.44 "Governmental Instrumentality" means any federal, state or local department, office, instrumentality, agency, board or commission having jurisdiction over a Party or any portion of the Services, the Phase 2 Project or the Phase 2 Site.

2.45 "Hazardous Materials" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances defined as or included in the



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definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

2.46 The term “including” means “including without limitation” or “including but not limited to.”

2.47 “Indemnified Party” means any member of the Company Group or the Bechtel Group, as the context requires.

2.48 “Indemnifying Party” means Company or Bechtel, as the context requires.

2.49 “Independent Engineer” means the engineer(s) employed by Lender.

2.50 “Insolvency Event” in relation to any Party means the bankruptcy, insolvency, liquidation, administration, administrative or other receivership or dissolution of such Party, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including the presentation of a petition or the passing of a resolution or making a general assignment or filing for the benefit of its creditors) for or with a view toward any of the foregoing.

2.51 “Key Personnel” or “Key Persons” has the meaning set forth in Section 3.3.

2.52 “Landowner” means any Person that has leased real property, provided a right of way or easement or licensed the use of real property to Company Group in connection with the Phase 2 Facility; or any Person to which Company Group has granted an ownership interest in improved real property, leased real property, provided a right of way or easement or licensed the use of real property in connection with the Phase 2 Facility.

2.53 “Lender” means any entity or entities providing temporary or permanent debt financing to Company.

2.54 “Level III” means a level of detail in a schedule in which the work is broken down at an area level (common area, turbine generator area, vaporizer area, Phase 2 Tanks, pipe racks, etc.), and involves over one thousand (1,000) activities. The deliverables by each engineering discipline are captured at this level. All major equipment (including bulk material requirements) are scheduled at area level and detailed construction activities at each commodity level follow the same area concept.

2.55 “Major Bechtel Subcontractor” means a Bechtel Subcontractor having a Bechtel Subcontract with an aggregate value in excess of One Million US Dollars (US\$1,000,000), except with respect to bulk materials, which shall have an aggregate value in excess of Two Million US Dollars (US\$2,000,000).

2.56 “Notice to Proceed” has the meaning set forth in Section 4.4.

2.57 “Party” means Company or Bechtel, and “Parties” means Company and Bechtel.

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- 2.58 "Person" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.
- 2.59 "Phase 1 EPC Agreement" means the Engineering, Procurement and Construction Agreement for the Sabine Pass LNG Receiving, Storage and Regasification Terminal by and between Bechtel Corporation and Sabine Pass LNG, L.P., dated December 18, 2004.
- 2.60 "Phase 1 Facility" means the facility owned by Company and currently under construction pursuant to the Phase 1 EPC Agreement.
- 2.61 "Phase 1 Project" means the engineering, procurement, construction, pre-commissioning, commissioning and testing of the Phase I Facility.
- 2.62 "Phase 1 Site" means that portion of Sabine Pass, Louisiana at which the construction activity is being or shall be performed for the Phase 1 Facility under the Phase 1 EPC Agreement.
- 2.63 "Phase 2 Facility" means the facilities contemplated by this Agreement as they are being constructed and once completed.
- 2.64 "Phase 2 Project" means the expansion to the Phase 1 Facility, to be constructed on the Phase 2 Site, which will include the engineering, procurement, construction management and construction services by Bechtel, in addition to construction work, equipment, materials and services to be provided by Company Contractors. The Phase 2 Project is described in greater detail herein.
- 2.65 "Phase 2 Site" means the real property located in Cameron Parish, Louisiana where the Phase 2 Project is contemplated to be constructed, which is described in greater detail in Attachment M.
- 2.66 "Phase 2 Tanks" means the LNG Tanks to be engineered, procured and constructed for the Phase 2 Facility by a Company Contractor, which are designated as Tank S-104 and Tank S-105.
- 2.67 "Procedures Manual" means the manual setting forth the project procedures as set forth in Section 4.14.
- 2.68 "Provisional Acceptance (BOP)" means that all Services to be performed by Bechtel or its Subcontractors and all work to be performed by Company Contractors and all other obligations under this Agreement are fully and completely performed in accordance with the terms of this Agreement, to achieve the following: (i) RFH for all Systems except the Phase 2 Tanks; (ii) delivery by Bechtel to Company of a comprehensive Punchlist, including a cost estimate (by System) to complete the Punchlist for each System, for all Systems except the Phase 2 Tanks and the approval of such Punchlist and cost estimate by Company; (iii) delivery by Bechtel to Company of all documentation required to be delivered under this Agreement as a prerequisite of achievement of Provisional Acceptance (BOP), including as-built drawings; (iv) delivery by Bechtel to Company of all remaining capital spares, capital spare parts and consumable spare parts purchased by Bechtel or

its Subcontractors and still in Bechtel's or its Subcontractors' possession; and (v) delivery by Bechtel to Company of a Notice of Provisional Acceptance (BOP) as required under Section 11.3.

2.69 "Provisional Acceptance (Tank S-104)" means that all Services to be performed by Bechtel or its Subcontractors and all work to be performed by Company Contractors and all other obligations under this Agreement are fully and completely performed in accordance with the terms of this Agreement, to achieve the following: (i) RFH for Tank S-104; (ii) delivery by Bechtel to Company of a comprehensive Punchlist for Tank S-104, including a cost estimate to complete the Punchlist for Tank S-104, and the approval of such Punchlist and cost estimate by Company; (iii) delivery by Bechtel to Company of all documentation required to be delivered under this Agreement as a prerequisite of achievement of Provisional Acceptance (Tank S-104), including as-built drawings; (iv) delivery by Bechtel to Company of all remaining capital spares, capital spare parts and consumable spare parts purchased by Bechtel or its Subcontractors and still in Bechtel's or its Subcontractors' possession; and (v) delivery by Bechtel to Company of a Notice of Provisional Acceptance (Tank S-104) as required under Section 11.4.

2.70 "Provisional Acceptance (Tank S-105)" means that all Services to be performed by Bechtel or its Subcontractors and all work to be performed by Company Contractors and all other obligations under this Agreement are fully and completely performed in accordance with the terms of this Agreement, to achieve the following: (i) RFH for Tank S-105; (ii) delivery by Bechtel to Company of a comprehensive Punchlist for Tank S-105, including a cost estimate to complete the Punchlist for Tank S-105, and the approval of such Punchlist and cost estimate by Company; (iii) delivery by Bechtel to Company of all documentation required to be delivered under this Agreement as a prerequisite of achievement of Provisional Acceptance (Tank S-105), including as-built drawings; (iv) delivery by Bechtel to Company of all remaining capital spares, capital spare parts and consumable spare parts purchased by Bechtel or its Subcontractors and still in Bechtel's or its Subcontractors' possession; and (v) delivery by Bechtel to Company of a Notice of Provisional Acceptance (Tank S-105) as required under Section 11.5.

2.71 "Punchlist" means, with respect to a System or Systems, a list of those finishing items required to complete all of Bechtel's Services and all work of all Company Contractors with respect to such System(s), the completion of which shall not materially interrupt nor affect the safe operation of such System(s) after the achievement of RFH for such System(s).

2.72 "Quality Surveillance Services" has the meaning set forth in Section 4.10.1.9.

2.73 "Ready for Handover" or "RFH" means, for each System, that all of the following have occurred: (i) Bechtel has completed all applicable Services and all work to be performed by Company Contractors have occurred, other than Services and work of a Punchlist nature, in accordance with the requirements contained in this Agreement and the Company Contracts to ensure that the respective System is ready for commissioning and startup; and (ii) Bechtel has delivered to Company a Notice of RFH as required by Section 11.1. At least ninety (90) days before the scheduled date of RFH for each System, Bechtel shall submit for Company's review and approval detailed requirements for Ready for Handover for such System.

2.74 "Receiving Party" has the meaning set forth in Section 17.3.

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2.75 "Reconciliation of Cost" has the meaning set forth in Section 8.1.1.2.

2.76 "Recoverable Costs" means the costs set forth in Attachment C.

2.77 "Services" has the meaning set forth in Section 4.1.

2.78 The terms "shall" and "will" indicate mandatory requirements.

2.79 "Site" means all or any portion of the Phase 1 Site and Phase 2 Site combined, as the case may be.

2.80 "System" means a portion of the Phase 2 Project that can be considered physically or operationally separable from the remainder of the Phase 2 Project such that it can be commissioned and used before Provisional Acceptance (BOP), Provisional Acceptance (Tank S-104) or Provisional Acceptance (Tank S-105), as applicable. Company and Bechtel shall develop and agree upon a list of Systems for the Phase 2 Project within 180 following the issuance of the Notice to Proceed.

2.81 "Terms and Conditions" refers to Articles 1 through 31 of this Agreement.

2.82 "Third Party" means any Person other than a member of (i) the Bechtel Group, (ii) the Company Group, (iii) any Bechtel Subcontractor or any employee, officer or director of such Bechtel Subcontractor or (iv) any Company Contractor or any employee, officer or director of such Company Contractor.

2.83 "Third Party Proprietary Work Product" has the meaning set forth in Section 16.1.1.

2.84 "Warranty" or "Warranties" has the meaning set forth in Section 13.1.1.

2.85 "Work Product" has the meaning set forth in Section 16.1.1.

2.86 "Working Day" means calendar days excluding weekends and the Bechtel Holidays.

### ARTICLE 3 INDEPENDENT CONTRACTOR

3.1 Bechtel shall perform all Services as an independent contractor, and Bechtel will act as Company's Authorized Representative as set forth in Article 4 and Attachment B.

3.2 Neither Bechtel nor its agents and employees shall be employees of Company. Except for services provided by Bechtel's employees under secondment agreements with Company in accordance with Section 4.13.2, Bechtel shall be responsible for and shall have exclusive direction and control of its agents, employees and Subcontractors and shall control the manner and method of carrying out the Services. However, if Company shall request Bechtel to remove one of its agents, employees (including Key Personnel) or Subcontractors, Bechtel shall cause such agent, employee or Subcontractor to be replaced within a reasonable time period. Company shall provide a written explanation for its request to remove any such agent, employee or Subcontractor, but Bechtel shall not be entitled to contest Company's request or refuse to remove such agent, employee or

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Subcontractor. Bechtel shall be entitled to seek payment for Recoverable Costs incurred in the removal and replacement of such agent, employee or Subcontractor.

3.3 Attachment J contains a list of key personnel ("Key Personnel" or "Key Persons") from Bechtel's organization who will be assigned to the Services. Key Personnel shall, unless otherwise expressly stated in Attachment J, be devoted full-time to the Services until completion of their specifically assigned Services under this Agreement, and Key Personnel shall not be removed or reassigned without Company's prior written approval (such approval not to be unreasonably withheld). All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and, unless otherwise agreed in writing by Company, the resumes of professional education and experience for a minimum of two (2) candidates of equal or greater qualifications and experience. Should Company Approve of the replacement of a Key Person, Contractor shall, so far as reasonably practicable, allow for an overlap of at least one (1) week during which both the Key Person to be replaced and the Company-Approved new Key Person shall work together full time, unless otherwise Approved by Company.

#### ARTICLE 4 BECHTEL'S SERVICES

4.1 Bechtel shall perform or cause to be performed for the Phase 2 Project the services and items generally described below and in Attachment A (the "Services"). Bechtel shall perform all Services in accordance with all requirements of this Agreement, including GECMP, Applicable Law and Applicable Codes and Standards.

4.2 With respect to Bechtel's solicitation and negotiation of Company Contracts, procurement, and construction management Services, Bechtel shall have limited authority to act as Company's authorized representative ("Authorized Representative"). The scope of Bechtel's authority to act as Authorized Representative is set forth in Attachment B.

4.3 Company shall include in all Company Contracts an express provision that Bechtel is authorized to act as Company's Authorized Representative and shall attach to all Company Contracts an exhibit substantially similar to Attachment B setting forth the scope and extent of Bechtel's authority as Authorized Representative.

4.4 Bechtel shall not, and shall not be obligated to, commence any performance of Services under this Agreement until Company issues a written Notice to Proceed ("NTP"). Upon Bechtel's receipt from Company of the NTP, Bechtel shall promptly commence with the performance of Services. Bechtel shall timely file in the required superior court and post at the Phase 2 Site a notice of commencement as required under La. Rev. Stat §9:4801, et seq., and shall provide copies of such notice of commencement to Bechtel Subcontractors as required under La. Rev. Stat. §9:4801, et seq. Company shall not issue NTP until Company has furnished to Bechtel reasonable documentation which demonstrates that Company (i) has sufficient funds to fulfill its payment obligations under this Agreement, or (ii) has obtained financing from one or more Lenders to fulfill its payment obligations under this Agreement, including (a) satisfaction, or waiver by Lenders, of all applicable conditions precedent to the occurrence of the closing date of the financing, which shall be prior to or contemporaneous with the issuance of the NTP, and (b) evidence of the execution of the credit

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agreement with respect to such financing by Company and Lenders (including a copy of such executed credit agreement (without exhibits)).

4.5 Notwithstanding any provision express or implied to the contrary, Bechtel is not Company's agent and is not authorized to enter into contracts or agreements on behalf of Company, execute change orders or other contractual modifications on behalf of Company, or otherwise contractually bind Company.

4.6 Engineering.

4.6.1 The Services shall include all of the services required to design, engineer and fully define the entire Phase 2 Facility, as described in greater detail in this Agreement and in Attachment A, with the exception of any design or engineering listed in this Agreement as being provided by Company Contractors or which Owner elects in writing to be performed by Company Contractors.

4.6.2 Bechtel's design and engineering services shall include the preparation of drawings, plans, specifications, bills of material, schedules and estimates, and coordination with the engineering efforts of suppliers regarding interface requirements.

4.6.3 Bechtel shall develop complete "Issued for Construction" drawings and specifications, which shall be based on all of the requirements of this Agreement. Those drawings prepared by Bechtel or Bechtel Subcontractors under this Agreement shall be prepared using computer aided design (CAD). The Issued for Construction drawings and specifications shall be signed and stamped by design professionals licensed in accordance with Applicable Law. As part of its Services, Bechtel shall identify and provide notice to Company of all Defects and Defective Services in any Issued for Construction drawings and specifications.

4.6.4 Approval or acceptance by Company of any drawings and specifications prepared by Bechtel or any of its Subcontractors does not relieve Bechtel of any of its obligations under this Agreement.

4.7 Solicitation and Negotiation of Company Contracts.

4.7.1 Bechtel shall, as part of its Services under this Agreement, and as requested by Company, identify potential Company Contractors for the procurement of equipment and materials and construction of the Phase 2 Facility, and shall, after Company's Approval of each such potential Company Contractor, prepare and solicit bids from such potential Company Contractor. Bechtel shall provide to Company all bid responses Bechtel receives, along with Bechtel's analysis and recommendations regarding such responses.

4.7.2 Company may provide standard forms and terms and conditions for the Company Contracts. If Company does not provide standard forms and terms and conditions for the Company Contracts, Bechtel shall, as part of the Services, prepare and deliver for Company's Approval standard forms and terms and conditions for the Company Contracts. As requested by Company, Bechtel shall use the standard terms and conditions provided or Approved by Company, and Bechtel shall incorporate the relevant scope of work into each Company Contract,

including complete drawings and specifications, as necessary. Bechtel shall assist Company in the negotiation of all Company Contracts or, if requested by Company, negotiate the Company Contracts on behalf of Company. Each Company Contract shall be executed by Company and shall be between Company and the respective Company Contractor, and Bechtel is not authorized to sign or otherwise execute any Company Contract on behalf of Company.

#### 4.8 Procurement by Bechtel

4.8.1 Bechtel shall procure materials, equipment, supplies, spare parts and related services for construction of the Phase 2 Project, except those items and services furnished by Company or Company Contractors. Procurement of materials, equipment and supplies under this Section 4.8 shall be limited to items that are required for the performance of Bechtel's Services and shall not include materials, equipment and supplies to be incorporated into the Phase 2 Project by Company Contractors. It is contemplated that the majority of the materials, equipment and supplies on the Phase 2 Project will be furnished by Company Contractors.

4.8.2 Bechtel shall identify and provide notice to Company of Defective materials, equipment and supplies that are procured by Bechtel or its Subcontractors.

4.8.3 Company agrees that excess and surplus materials from the Phase I Project may be furnished by Bechtel for the Phase 2 Project at fair market prices to be agreed upon by Company and Bechtel.

4.9 Construction Management Services. As part of the Services, Bechtel shall perform for Company the construction management Services generally described below and described in greater detail in Attachment A. Such construction management Services shall include:

4.9.1 Services associated with monitoring, forecasting, projecting costs and scheduling the Phase 2 Project as a whole and coordinating the construction of the Phase 2 Project. Such Services shall further include:

4.9.1.1 Developing and submitting to Company within one hundred twenty (120) days after Notice to Proceed an overall Level III schedule which organizes and plans the Phase 2 Project construction program, subject to Company's approval. The Level III schedule will include all critical Phase 1 Project activities.

4.9.1.2 Preparing cost reports, progress reports, construction schedules, construction forecasts, estimates of monthly cash requirements, estimates for contract progress payments, and such other reports and data as may be required by Company.

4.9.1.3 Developing for Company's Approval a project safety program, subject to the provisions of Section 4.10.3 below.

4.9.1.4 Providing advice and guidance for Company with regard to labor relations.

4.9.1.5 Providing such other construction management services as are agreed to by the Parties.

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#### 4.10 Management of Company Contractors

4.10.1 Unless otherwise specified in writing by Company, Bechtel shall assist in administering all of the Company Contracts for the Phase 2 Project. In this regard, Bechtel's activities shall include:

4.10.1.1 Performing inspection, receiving, and warehousing of equipment and materials for those items not designated to be inspected, received and warehoused by Company Contractors.

4.10.1.2 Inspecting the quality and monitoring the progress of Company Contractors' work and observing all such work at the Phase 2 Site, and if requested by Company, observing the performance of such work at other locations.

4.10.1.3 Reviewing, approving and paying invoices and payment applications from Company Contractors, using funds provided by Company, as follows:

4.10.1.3.1 At least forty-five (45) days prior to the beginning of any month in which payments to Company Contractors will be due, Bechtel shall provide to Company an estimate of the amount that will be due to Company Contractors in such month;

4.10.1.3.2 Company shall have the right to review and approve such estimate and to request additional information of the estimate and revision of the estimate;

4.10.1.3.3 After approval by Company of the estimate, Company shall deposit funds into a separate Phase 2 Project specific bank account ("Company Contractor Payment Account") in an amount such that the available funds in the Company Contractor Payment Account are equal to or exceed, at Company's discretion, the amount of the estimate;

4.10.1.3.4 Within ten (10) days after receipt of any invoice or payment application from a Company Contractor, Bechtel shall review such invoice or payment application and provide comments, analyses and recommendations regarding such invoice or payment application to Company. Company shall have ten (10) days to review Bechtel's review, analysis and recommendation with respect to such invoice or payment application, and Bechtel shall comply with any instruction from Company regarding such invoice or payment application;

4.10.1.3.5 On or before the due date for payment of a Company Contractor invoice or payment application, and provided that Company Contractor or Company has timely submitted its payment estimates and invoice or payment application to allow Bechtel sufficient time to comply with the requirements of Section 4.10.1.3, and provided that Company has deposited sufficient funds into the Company Contractor Payment Account, Bechtel shall make payment on such Company Contractor invoice or payment application from the Company Contractor Payment Account in accordance with Bechtel's review and recommendation of such invoice, unless Company has instructed Bechtel to proceed otherwise, in which case Bechtel shall follow Company's instructions with respect to such invoice or payment application;



4.10.1.3.6 Once per month, Bechtel shall provide to Company a reconciliation report ("Company Contractor Payment Reconciliation Report") in such detail and with such backup documentation as is reasonably acceptable to Company. The Company Contractor Payment Reconciliation Report shall, at a minimum, show the payment amounts requested in Company Contractor invoices, the amounts paid to Company Contractors on such invoices, and the remaining balance of the Company Contractor Payment Account;

4.10.1.3.7 The Procedures Manual may contain further detail regarding the procedures for the receipt and review by Bechtel of invoices and payment applications from Company Contractors, and the payment of such invoices and payment applications;

4.10.1.3.8 Bechtel shall not be entitled to any burden, overhead, mark-up, or other direct costs on any payments to Company Contractors; and

4.10.1.3.9 It shall be a material breach of this Agreement for Bechtel to withdraw or otherwise transfer or pay funds from the Company Contractor Payment Account for payment to Bechtel, any Bechtel Affiliate, any Bechtel Subcontractor, or for any other purpose other than paying such funds to Company Contractors.

4.10.1.4 Monitoring contractors' performance of jobsite security obligations.

4.10.1.5 Subject to the provisions of Section 4.10.3 below, monitoring Company Contractors' performance of contractual obligations relating to personnel safety, including health.

4.10.1.6 Issuing to Company Contractors notices of non-conforming work and notices of failure to progress the work in accordance with the schedule under the applicable Company Contract (but such notices shall not include formal notices of a breach under the applicable Company Contract); if necessary and appropriate, Bechtel may recommend to Company further action with respect to such Company Contractors, including the issuance of formal notice of breach or of default under the applicable Company Contract and termination for default if the Company Contractor fails to correct such non-compliance in accordance with the terms of the applicable Company Contract. If requested by Company to do so, Bechtel may draft such notices for issuance by Company, but Bechtel shall not be authorized to issue such notices of default or to terminate a Company Contractor for default on behalf of Company.

4.10.1.7 Monitoring, reviewing and inspecting Company Contractors' work related to the correction of defects, errors or omissions in the materials, equipment, supplies, work or services provided or performed by such Company Contractors or their subcontractors, and assisting Company in the enforcement of warranties and warranty obligations of Company Contractors (up to Final Acceptance).

4.10.1.8 Consulting with Company as to the available space for storage of materials and equipment and location of facilities, places of access to the Phase 2 Site, etc., to suit Company's requirements.

4.10.1.9 On behalf of and as requested by Company, as part of its Services, Bechtel also shall perform expediting, quality surveillance and traffic services with respect to materials, equipment and supplies procured through Company Contractors. Company shall notify such

Company Contractors of Bechtel's authorization to so act for and on behalf of Company. As used herein, "Quality Surveillance Services" consists of the review, observation and evaluation of processes, procurement, manufacturing operations, quality control systems and programs to monitor Company Contractor compliance with contractual quality requirements. Bechtel shall perform such Quality Surveillance Services in accordance with GECMP, this Agreement and the Company Contracts. Bechtel's Quality Surveillance Services shall not take the place of any Company Contractors' quality programs or warranties, and Bechtel assumes no responsibility for such Company Contractors' programs or warranties.

4.10.2 Bechtel will provide a safety/security supervisor, who will be responsible for working with the safety representatives of Company Contractors for implementation by the Company Contractors of specific programs designed to enhance safety awareness and promote accident and fire prevention. Bechtel shall notify Company immediately if any Company Contractor fails to follow any such program.

4.10.3 Regardless of any of the foregoing to the contrary, each Company Contractor shall implement a written safety program and shall be responsible for safety in connection with its work. Bechtel's obligations hereunder related to safety are for the exclusive benefit of the Company and in no event shall inure to the benefit of any third party, except the Lender(s).

#### 4.11 Construction

With the exception of certain construction services to be performed by Company Contractors, Bechtel shall perform services to construct the Phase 2 Project, furnishing labor, equipment, materials and tools for such construction in accordance with Attachment A. With regard to the foregoing, Bechtel shall also handle and warehouse materials, supplies and equipment for permanent and temporary construction, and prepare budget schedules and estimates.

#### 4.12 Construction Equipment and Tools

As requested by Company, or to the extent Bechtel determines they are necessary, Bechtel shall furnish construction equipment and tools. Company and Bechtel shall agree upon the source of such equipment and tools and whether they shall be acquired on a purchased, leased, or rented basis. Company agrees that such construction equipment and tools may be furnished by Bechtel's related entity Bechtel Equipment Operations, Inc. ("BEO") or its Affiliates, subject to Company's approval of the equipment rental rates of BEO at the time such equipment is to be furnished. If Company does not approve such equipment rental rates and similar equipment can be rented in the nearby market at lower rates, Bechtel shall furnish such construction equipment from another suitable equipment supplier.

#### 4.13 Commissioning and Start-Up Support Services

4.13.1 Company may request for Bechtel to provide technical and other assistance to Company in the commissioning and start-up of components, calibration of controls and equipment, initial operation of the Phase 2 Facility, functional verification tests, and other start-up and initial operation functions of the Phase 2 Facility.

4.13.2 If requested by Company to do so, Bechtel will furnish commissioning, start-up and performance testing personnel to assist Company's operating organization during the commissioning, start-up and performance testing of the Phase 2 Facility on a "seconded" basis in accordance with a secondment agreement to be agreed upon by the Parties. The performance of services by such personnel shall be under the supervision, direction and control of Company. The Services performed by such personnel may include the following:

4.13.2.1 Assist with regard to planning, coordinating, witnessing systems and equipment pre-operational tests, and equipment commissioning and start-up.

4.13.2.2 Provide consultation to Company on operational features.

4.13.2.3 Consult with and advise Company's operating staff and Company Contractors regarding necessary modifications, if any, to equipment.

4.13.2.4 Collaborate with and assist Company's operating staff in setting up, commissioning and start-up schedules, procedures and practices, including, if requested by Company, procedures and protocols for performance tests desired by Company.

4.13.2.5 Coordinate the services provided by manufacturers in adjusting, calibrating and verifying the correct installation of their equipment.

4.13.3 If Company desires for Bechtel to furnish commissioning, start-up and performance testing personnel, Company shall give Bechtel ninety (90) days notice prior to the beginning of such commissioning, start-up and performance testing.

4.13.4 The start-up and testing personnel will be provided for no longer than ninety (90) days unless otherwise agreed upon by the Parties.

4.14 Project Procedures. Bechtel will develop with Company a detailed procedures manual or manuals ("Procedures Manual") setting forth such information that further specifies the scope of Services including: requirements for safety, labor relations and/or security services; correspondence procedures; requirements for issuing contract and procurement specifications; solicitation and analysis of bids; award of contracts and Bechtel-procured items; and the timing and content of cost, progress and final reports. Bechtel shall prepare the Procedures Manual for review and Approval by Company within ninety (90) days following the issuance of the Notice to Proceed.

4.15 Time of Performance. Bechtel shall prepare for Company's Approval a schedule for the performance of the Services. Bechtel shall use its best efforts to achieve completion of the Services in accordance with such schedule.

#### ARTICLE 5 THE PHASE 2 SITE

5.1 Company has furnished to Bechtel a legal description of the Phase 2 Site and a survey of the Phase 2 Site showing the boundaries of the Phase 2 Site and at least one survey control point. Bechtel shall be entitled to rely upon the accuracy of this information. The legal description of the Phase 2 Site is set forth in Attachment M.

5.2 Bechtel agrees that the Phase 2 Site is adequate for the Phase 2 Project and has adequate space for the Phase 2 Project construction facilities and, at the time of the execution of this Agreement, has suitable access.

5.3 Company shall secure at its own expense all leases, titles, concessions, bonds, deposits, permits, approvals, licenses, easements and rights-of-way necessary for the engineering, procurement, construction and completion of the Phase 2 Project, except for those permits, approvals and licenses required to be in Bechtel's name or to be obtained by Company Contractors. Bechtel will provide reasonable assistance to Company, to the extent requested by Company, for Company to obtain such leases, titles, concessions, bonds, deposits, permits, licenses, easements and other land rights, and in connection with applications to and hearings before Governmental Instrumentalities having jurisdiction over the construction, management or operation of the Phase 2 Project.

5.4 Company shall have custody and control of the Phase 2 Site at all times, but Bechtel shall manage the Phase 2 Site, including with respect to safety, environmental compliance, access and security. More specifically, Bechtel shall coordinate access of itself, all Bechtel Subcontractors and all Company Contractors to the Phase 2 Site and within the Phase 2 Site and the use of lay down areas, parking facilities, and other areas of the Phase 2 Site. Company's custody and control of the Phase 2 Site shall not relieve Bechtel of any responsibility or obligation under this Agreement, including any of Bechtel's safety or indemnification obligations under this Agreement.

#### ARTICLE 6    COMPENSATION

6.1 For the performance of the Services, Company shall pay to Bechtel, in the manner and at the times hereinafter specified, a total compensation consisting of Bechtel's Recoverable Costs as defined in Attachment C, "Recoverable Costs," plus a Fixed Fee as specified hereinafter.

6.2 Company shall pay to Bechtel a fixed fee ("Fixed Fee"), as set forth in Attachment D.

6.3 In its sole and unfettered discretion, Company may pay to Bechtel a discretionary bonus ("Discretionary Bonus") after Final Acceptance.

#### ARTICLE 7    CHANGES

7.1 Changes by Company. Company shall have the right to require changes in the Services and the scope of the work of Company Contractors, whether by addition, deduction or other change. Changes in the Services shall be by Change Order, and changes in the scope of work by Company Contractors shall be by change order to the Company Contracts. For the performance of any additional Services as required by a Company change order, Company shall pay to Bechtel in the manner as defined in Attachment C, "Recoverable Costs Methodology." For purposes of this Article 7, the baseline scope and cost estimate for the Phase 2 Project is set forth in Bechtel's March 23, 2006 estimate, as modified by Bechtel's April 28, 2006 estimate.

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## 7.2 Adjustment to Fixed Fee.

7.2.1 Subject to Section 7.2.3 and 7.2.5, for Change Orders for changed Services or change orders for changed work to be performed by Company Contractors that increase the cost of the Phase 2 Project by Five Million US Dollars (US\$5,000,000) individually or in the aggregate, the Fixed Fee will be adjusted accordingly by Two Hundred Thousand US Dollars (US\$200,000).

7.2.2 Subject to Section 7.2.3 and 7.2.5, for any individual or group of Change Orders for changed Services or change orders for changed work by Company Contractors that in the aggregate exceed Five Million US Dollars (US\$5,000,000), the excess cost over Five Million US Dollars (US\$5,000,000) will be included in the next increase of Five Million US Dollars (US\$5,000,000) of the cost of the Services and/or work by Company Contractors. By way of explanation and example only, if the aggregate increase by Change Orders or change orders above was US\$6,000,000, Bechtel would be entitled to an adjustment of the Fixed Fee based on the first US\$5,000,000, but not on the subsequent US\$1,000,000, however, this amount will be added to additional Change Orders or change orders to achieve the next US\$5,000,000 threshold.

7.2.3 The Fixed Fee shall not be adjusted for any change due to increased costs caused by escalation in the cost of labor, materials or equipment, estimating errors, or higher than expected costs for labor, materials or equipment.

7.2.4 If (i) the Project is delayed for more than ninety (90) consecutive days by a Force Majeure event, (ii) Company orders a suspension of all or a significant portion of the Services and work for more than sixty (60) consecutive days, or (iii) Company directs Bechtel and/or the Company Contractors to significantly delay the progress of the Phase 2 Project, then Bechtel shall be entitled to an increase in the Fixed Fee pursuant to Section 7.2.1.

7.2.5 Bechtel shall not be entitled to an increase in the Fixed Fee if the circumstances of a change arise out of or relate to any Defective Services by Bechtel, Bechtel Affiliates or Bechtel Subcontractors.

7.3 Request for Change Order. If Bechtel believes that it is entitled to a Change Order adjusting the Fixed Fee under this Article 7, it shall so inform Company in writing in the form of Attachment E, Form E-1, within thirty (30) Days of the date that such entitlement first arises, providing a detailed statement of all known and presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Bechtel first knew of the circumstance giving rise to such entitlement, any activities impacted by such circumstance, a good faith estimate of the adjustment of the Fixed Fee for which Bechtel believes it is entitled under this Agreement and any other details or information that are expressly required under this Agreement or reasonably required by Company. Failure to provide the notice required by this Section shall operate as a final waiver of any right to request an adjustment to the Fixed Fee.

7.3.1 Company shall respond to Bechtel's written statement and request for a Change Order within fourteen (14) Working Days of receipt, responding to Bechtel's statement as to the effects of the proposed Change Order.

7.3.2 If the Parties agree on the terms of the proposed Change Order, the Parties shall execute such Change Order, which shall be in the form of Attachment E, and such Change Order shall become binding on the Parties, as part of this Agreement.

7.3.3 If the Parties cannot agree on the proposed Change Order, Bechtel may seek relief pursuant to Article 27. Pending resolution of such Dispute, Bechtel shall continue to perform the Services without interruption, including (if directed by Company) any Services which are the subject of the Dispute.

7.4 Change Orders Act as Accord and Satisfaction. Unless otherwise expressly stated in the Change Order, Change Orders executed by the Parties pursuant to this Article 7 shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order and shall be deemed to compensate Bechtel fully for such change. Accordingly, unless otherwise expressly stated in such Change Order, Bechtel expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Company for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for any increase in the Fixed Fee.

7.5 Adjustment Only Through Change Order. Section 7.1 and Section 7.2 set forth Bechtel's exclusive rights to any increase in the Fixed Fee and are Bechtel's exclusive rights to a Change Order under this Agreement. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement or the Phase 2 Project schedule, including any Services or Company Contractor work, and no act of Company or circumstance on the Project, including delay, acceleration, or otherwise, shall be the basis for an increase in the Fixed Fee unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 7. An increase in the cost of the Company Contractor work or the cost of the Services shall not entitle Bechtel to an increase in the Fixed Fee unless such increase in cost meets all the requirements of Section 7.1.

## ARTICLE 8 MANNER AND TIMES OF PAYMENT

### 8.1 Payment of Recoverable Costs

8.1.1 Within the first five (5) Working Days of each month, Bechtel shall submit to Company an electronic invoice for compensation that Bechtel estimates will be due to Bechtel for Services to be performed in that month ("Concurrent Funding Request"). With each Concurrent Funding Request after the first one, Bechtel shall submit fully executed conditional lien waivers for itself and all Major Bechtel Subcontractors performing Services on the Phase 2 Project in the form set forth in Attachment I, Schedules I-1 and I-2, respectively. The submission of such lien waivers shall be a condition precedent to payment from Company.

8.1.1.1 The amount of the Concurrent Funding Request for each month will be equal to the sum of the estimated labor costs (consisting of actual hours spent to-date for the month plus estimated hours to-go for the month) and other Recoverable Costs expected to be due to

Bechtel for the current calendar month, calculated in accordance with the provisions of Attachment C. Company shall electronically transfer funds in U.S. Dollars to an account designated by Bechtel on the 26th day of the month, or if such day is not a Working Day, then on the first Working Day immediately following the 26th day of the month.

8.1.1.2 As soon as practical after the close of each calendar month, Bechtel shall submit to Company a reconciliation of the Recoverable Costs for such month, which shall reflect the difference between the amount requested in the Concurrent Funding Request for the Recoverable Costs for such month and the actual value of the Recoverable Costs earned during such month, calculated in accordance with the provisions of Attachment C ("Reconciliation of Cost"). The monthly Reconciliation of Cost will contain a reconciliation of payments received and compensation due for both the latest calendar month and inception-to-date. Any adjustments necessary will be reflected on the next Concurrent Funding Request submitted. The Reconciliation of Cost shall include information and documents requested by Company.

8.1.1.3 Company shall have the right to audit Bechtel's Reconciliation of Cost in accordance with Article 10 and to dispute the amounts requested in a Concurrent Funding Request or the amounts set forth in the Reconciliation of Cost. Company shall have no obligation to pay amounts in dispute, pending resolution of such dispute.

8.1.1.4 Without in any way relieving Bechtel of its obligations under this Agreement or depriving Company of any other rights under this Agreement, Bechtel agrees that it shall not seek payment of any amounts for Services performed after one hundred eighty (180) days following the expiration of the Defect Correction Period or resolution of all pending claims, whichever is later.

8.1.1.5 Company shall not be obligated to pay, and Bechtel shall not include a request for payment or otherwise seek payment under this Agreement, for any cost, expense, fee or profit related to the Phase 1 Facility or that is otherwise part of the scope of work for the Phase 1 Facility or under the Phase 1 EPC Agreement.

8.1.1.6 On or after the Effective Date of this Agreement, Bechtel and Company shall agree upon the rates for certain Recoverable Costs, which shall be specified in a letter agreement.

## 8.2 Payment of Fixed Fee

Company shall pay Bechtel, by electronically transferring funds in U.S. Dollars, the Fixed Fee in accordance with Attachment D "Fixed Fee" attached hereto and incorporated by reference. The Fixed Fee shall be billed with the Concurrent Funding Request.

## 8.3 Interest

In addition to any other rights Bechtel may have under this Agreement with respect to amounts owed to Bechtel under this Agreement, if Company fails to pay any undisputed amount owed to Bechtel for more than forty-five (45) days after the date such amount is owed, such amounts shall

accrue interest, starting on the forty-sixth (46<sup>th</sup>) day after such amount is due, for each day such amount is not paid at the lesser of: (i) a simple per annum interest rate equal to three percent (3%) above the prime lending rate quoted to substantial and responsible commercial borrowers on ninety (90) day loans by the Bank of America, N.T. & S.A., San Francisco, California, or (ii) the maximum rate permitted by Applicable Law.

#### 8.4 Final Waiver of Liens and Claims

The final invoice submitted by Bechtel to Company under this Agreement shall be accompanied by fully executed final conditional lien and claim waivers from Bechtel and all Major Bechtel Subcontractors that performed Services on the Phase 2 Project, in the form set forth in Attachment I.

8.5 Payments Withheld. In addition to disputed amounts set forth in a Concurrent Funding Request, Company may, in addition to any other rights under this Agreement, withhold payment on an Concurrent Funding Request or a portion thereof, in an amount and to such extent as may be reasonably necessary to protect Company from loss due to:

8.5.1 Defective Services, unless Bechtel has, within fourteen (14) days of written notice from Company, either (i) remedied such applicable Defective Services or (ii) if such applicable Defective Services cannot be remedied by the exercise of reasonable diligence within such fourteen (14) day period, provided Company with a written plan, reasonably acceptable to Company, to remedy such applicable Defective Services and commenced the remedy of such Defective Services, provided that the amount withheld by Company shall be based on rates comparable to those being charged by Bechtel hereunder;

8.5.2 liens or other encumbrances on all or a portion of the Phase 2 Site or the Phase 2 Facility, which are filed by any Bechtel Subcontractor or officer, director, employee or agent of any Bechtel Subcontractor or Bechtel, or any other Person acting through or under any of them unless Bechtel has, within fourteen (14) days of written notice from Company, taken any of the following actions: (i) paid, satisfied or discharged the applicable liability, (ii) removed the lien or other encumbrance, or (iii) provided Company with a bank guarantee or bond reasonably satisfactory to Company and Lender in the applicable amount;

8.5.3 any material breach by Bechtel of any term or provision of this Agreement, unless Bechtel has, within fourteen (14) days of written notice from Company, either (i) cured such breach or (ii) if such breach cannot be cured by the exercise of reasonable diligence within such fourteen (14) day period, Bechtel has commenced corrective action and is diligently exercising all commercially practicable efforts to cure such breach;

8.5.4 the assessment of any fines or penalties against Company as a result of Bechtel's failure to comply with Applicable Law or Applicable Codes and Standards, provided that such fines and penalties were not the result of Company's failure to secure necessary licenses, approvals or permits for which Company was responsible under this Agreement;

8.5.5 amounts paid by Company to Bechtel in a preceding month incorrectly;



8.5.6 any other costs or liabilities which Company has incurred for which Bechtel is responsible under this Agreement.

Company shall pay Bechtel the amount withheld as soon as practicable, but in no event later than fifteen (15) Working Days after Company's receipt of an invoice from Bechtel, if Bechtel, as appropriate, (i) pays, satisfies or discharges the applicable liability and provides Company with reasonable evidence of such payment, satisfaction or discharge, (ii) removes the lien or other encumbrance, (iii) cures the breach in question, (iv) remedies the Defective Services in question, or (v) provides Company with a bank guarantee or bond reasonably satisfactory to Company and Lender in the amount of the withheld payment.

If Company withholds payment under this Section 8.5, it shall provide Bechtel with written notice of such withholding, stating the amount being withheld and the basis for such withholding, no later than the date on which payment would otherwise be due.

8.6 Payment Error: If an error is made in connection with a payment, and such payment is an overpayment, the Party receiving the payment in error shall immediately refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Company under this Agreement, if Company discovers that any amount paid by it to Bechtel in a preceding month was incorrect, then Company may, at its sole discretion, offset such amount against future payments, provided that Company notifies Bechtel in writing of the amount of and the basis for such offset.

#### ARTICLE 9 TAXES

9.1 The term "taxes" means any and all applicable duties, imposts, taxes, fees, licenses and other similar charges of every kind and all penalties or interest thereon which may be assessed or levied on Bechtel or its employees or agents, Bechtel Subcontractors, and their employees or agents, arising out of or in connection with this Agreement, wherever levied or assessed. The term "taxes" also includes any withholding taxes, which Company may be required to withhold from any payments to Bechtel.

9.2 Bechtel shall be liable and responsible for the reporting, filing and payment of any income, business, gross receipts, excise, payroll, unemployment, medical, social or any other taxes, imposed directly or indirectly on Bechtel or Bechtel Subcontractors, or their employees or agents, as a result of the performance of the Services under this Agreement, and SHALL DEFEND, INDEMNIFY AND HOLD COMPANY HARMLESS FROM ANY AND ALL CLAIMS, JUDGMENTS, LOSSES, EXPENSES AND ANY COSTS RELATED THERETO (INCLUDING COURT COSTS AND ATTORNEYS' FEES) FOR ANY TAXES FOR WHICH BECHTEL IS RESPONSIBLE UNDER THIS AGREEMENT. Except as set forth in Section 9.4 below, all applicable taxes and social charges, including withholding taxes, for which Bechtel is liable under this Article 9, Sections 9.2 or 9.3, are included in the rates and prices to be provided in the letter agreement specified in Section 8.1.1.6, and Company shall have no responsibility to separately reimburse Bechtel for any such taxes or social charges.

9.3 Unless Bechtel provides evidence to substantiate that Company is not required to withhold taxes from its payment to Bechtel, Company shall withhold from sums otherwise due Bechtel under

this Agreement any taxes or amounts required by Applicable Law to be withheld and shall pay the same when due to the appropriate taxing Governmental Instrumentalities. Company shall provide Bechtel with governmental receipts evidencing payment of taxes withheld. Should Bechtel claim exemption from withholding, Bechtel shall provide Company with all evidence as may be required by Applicable Law to substantiate that Company is not required to withhold the applicable amounts from payments to Bechtel. Taxes withheld pursuant to this Section 9.3 shall be for Bechtel's account only and Company shall have no obligation to reimburse Bechtel for any such taxes withheld.

9.4 Invoiced compensation payable to Bechtel shall be exclusive of value added taxes, and sales and use taxes, where applicable. Any such taxes shall be shown separately on the Concurrent Funding Request and Cost Reconciliation, and Company shall pay such amounts to Bechtel, in addition to the compensation payable. Bechtel shall make all reasonable efforts to minimize its liability to pay and to recover from Company any value added taxes or sales and use taxes, which may be assessed on compensation or payments under this Agreement, and Bechtel shall cooperate fully with Company in any reasonable and lawful effort by Company to reduce or eliminate any such value added or sales and use taxes for which Company is liable under this Agreement.

9.5 In the event that Bechtel purchases tangible personal property pursuant to this Agreement that is ultimately incorporated into the Phase 2 Facility that, at the time Bechtel's use or purchase was subject to Louisiana sales and use tax, and such Louisiana sales and use tax is recoverable by Company under the Louisiana Enterprise Zone Incentive Program, Bechtel agrees to provide the information required to Company's auditor to allow Company's auditor to recover such Louisiana sales and use tax directly from the State of Louisiana Department of Revenue.

## ARTICLE 10 ACCOUNTING AND LIEN SUBORDINATION

### 10.1 Accounting

10.1.1 Bechtel shall keep full and detailed books, construction logs, records, daily reports, schedules, accounts, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper performance of the Services and proper management under this Agreement, including as required under Applicable Law or this Agreement, and in any way relating to Recoverable Costs, Reconciliation of Cost, or this Agreement. Bechtel shall maintain all such documents in accordance with GAAP and shall retain all such documents, including all electronic copies and related data, for a minimum period of two (2) years after Final Completion, or such greater period of time as may be required under Applicable Law.

10.1.2 Upon reasonable notice, and at any time from the Effective Date to at least two (2) years after Final Completion, Company shall have the right to audit, or have audited by Company's third party auditors, all such documents listed above. When requested by Company, Bechtel shall provide Company or its auditors with reasonable access to all such documents, and Bechtel's personnel shall cooperate with Company and such auditors to effectuate the audit or audits hereunder. Company and its auditors shall have the right to copy all such documents, including any electronic copies of such documents. Bechtel shall include audit provisions

identical to this Article in all Bechtel Subcontracts. Company's audit rights shall not extend to the internal composition of fixed rates or fixed multipliers. All reasonable costs incurred by Bechtel in complying with an audit request from Company shall be Recoverable Costs. Prior to conducting any audit under this Section 10.1.2, Company's third party auditors shall enter into a confidentiality agreement with Bechtel with terms customary in the audit industry for audits of this kind.

10.1.3 In addition, provided that Company has advised Bechtel of Company's requirements in advance, Bechtel shall organize its records and books of accounts to segregate various costs and otherwise provide data required by Company for investment, tax and related purposes. At Company's request, such Company-required records and books of accounts shall be delivered to Company at Final Acceptance.

10.2 Lien Subordination. Bechtel will subordinate any mechanic's and materialmen's liens or other claims or encumbrances that may be brought by Bechtel against any or all of the Site or Phase 2 Project to any liens granted in favor of Lender, whether such lien in favor of Lender is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require Bechtel Subcontractors to similarly subordinate their lien, claim and encumbrance rights. Nothing in this Section shall be construed as a limitation on or waiver by Bechtel of any of its rights under Applicable Law to file a lien or claim or otherwise encumber the Phase 2 Site or Phase 2 Project as security for any undisputed payments owed to it by Company hereunder which are past due; provided that such lien, claim or encumbrance shall be subordinate to any liens granted in favor of Lenders.

## ARTICLE 11 READY FOR HANDOVER AND FINAL ACCEPTANCE

### 11.1 Ready for Handover

11.1.1 When in Bechtel's opinion a System is Ready for Handover, Bechtel shall notify Company in writing using the Notice of RFH Form attached as Attachment P. Company within ten (10) days of such notice shall in writing either accept the System as Ready for Handover or give Bechtel written notice of unfinished Services or deficiencies. Upon completion of such specified unfinished Services with regard to a System and correction of all specified deficiencies, Bechtel shall so advise Company in writing and Company within ten (10) days of the date of such notice shall in writing either accept the System as Ready for Handover or give Bechtel notice of the failure to so complete the specified unfinished Services or correct the specified deficiencies. In the latter instance, the foregoing procedure with respect to such specified unfinished Services and specified deficiencies shall be repeated. Company's use of any portion of the System or Company's failure to respond to Bechtel's notice given hereunder shall not be deemed to constitute acceptance or agreement that the System is Ready for Handover.

11.1.2 After Ready for Handover for a System, Company shall be responsible for the testing, commissioning, start-up, operation and maintenance of the System.

11.2 Punchlist. Whenever a System is Ready for Handover, Bechtel shall submit to Company for Company's review a Punchlist for that System. Bechtel shall thereafter modify the Punchlist as

directed by Company, and the Parties shall then mutually agree upon the Punchlist for such System. Bechtel shall update such Punchlist as appropriate as additional Services and work are performed with respect to such System. At the same time that it gives Company notice that the requirements for Provisional Acceptance (BOP), Provisional Acceptance (Tank S-104), or Provisional Acceptance (Tank S-105), have been met pursuant to Section 11.3, 11.4, or 11.5, as applicable, Bechtel shall also submit to Company for Company's review an updated Punchlist for all Systems. Bechtel shall thereafter modify such updated Punchlist as directed by Company, and the Parties shall then mutually agree upon the final Punchlist for all Systems. Bechtel shall not have any obligation to perform Company Contractor's Punchlist work.

**11.3 Provisional Acceptance (BOP).** When all the requirements for Provisional Acceptance (BOP) have been met, Bechtel shall so notify Company in writing using the Notice of Provisional Acceptance Form attached hereto as Attachment N. Within thirty (30) days of the date of such notice, Company shall give Bechtel written notice of Company's Provisional Acceptance (BOP) of the Balance of Plant, or will advise Bechtel in writing of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors, related to the Balance of Plant, other than Services or work of a Punchlist nature. Upon completion of such Services and the completion of such work by Company Contractors, Bechtel shall so notify Company in writing. Within ten (10) days of the date of such notice, Company shall in writing give Bechtel notice of Company's Provisional Acceptance (BOP) of the Balance of Plant, or written notice of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors, related to the Balance of Plant. In the latter instance, the foregoing procedure with respect to such specified unfinished Services and work will be repeated. Company's use of the Phase 2 Project shall not constitute Provisional Acceptance (BOP). If Company fails to give the required notice within the specified period above, provided that Bechtel gave notice of Provisional Acceptance (BOP) on the required Notice of Provisional Acceptance Form, and provided further that Bechtel has reasonably complied with the requirements for achieving Provisional Acceptance (BOP), as defined herein, then Bechtel shall be deemed to have achieved Provisional Acceptance (BOP), but only as between Bechtel and Company, and not with respect to any Company Contractor. Such Provisional Acceptance (BOP) shall not relieve Bechtel of any obligations surviving Provisional Acceptance (BOP), Final Acceptance or of any Defective Services.

**11.4 Provisional Acceptance (Tank S-104).** When all the requirements for Provisional Acceptance (Tank S-104) have been met, Bechtel shall so notify Company in writing using the Notice of Provisional Acceptance Form attached hereto as Attachment N. Within thirty (30) days of the date of such notice, Company shall give Bechtel written notice of Company's Provisional Acceptance (Tank S-104) of Tank S-104, or will advise Bechtel in writing of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors, related to Tank S-104, other than Services or work of a Punchlist nature. Upon completion of such Services and the completion of such work by Company Contractors, Bechtel shall so notify Company in writing using the Notice of Provisional Acceptance Form attached hereto as Attachment N. Within ten (10) days of the date of such notice, Company shall in writing give Bechtel notice of Company's Provisional Acceptance (Tank S-104) of Tank S-104, or written notice of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors, related to Tank S-104. In the latter instance, the foregoing procedure with respect to such specified unfinished Services and work will be repeated. Company's

use of the Phase 2 Project shall not constitute Provisional Acceptance (Tank S-104). If Company fails to give the required notice within the specified period above, provided that Bechtel gave notice of Provisional Acceptance (Tank S-104) on the required Notice of Provisional Acceptance Form, and provided further that Bechtel has reasonably complied with the requirements for achieving Provisional Acceptance (Tank S-104), as defined herein, then Bechtel shall be deemed to have achieved Provisional Acceptance (Tank S-104), but only as between Bechtel and Company, and not with respect to any Company Contractor. Such Provisional Acceptance (Tank S-104) shall not relieve Bechtel of any obligations surviving Provisional Acceptance (Tank S-104), Final Acceptance or of any Defective Services.

**11.5 Provisional Acceptance (Tank S-105).** When all the requirements for Provisional Acceptance (Tank S-105) have been met, Bechtel shall so notify Company in writing using the Notice of Provisional Acceptance Form attached hereto as Attachment N. Within thirty (30) days of the date of such notice, Company shall give Bechtel written notice of Company's Provisional Acceptance (Tank S-105) of Tank S-105, or will advise Bechtel in writing of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors, related to Tank S-105, other than Services or work of a Punchlist nature. Upon completion of such Services and the completion of such work by Company Contractors, Bechtel shall so notify Company in writing using the Notice of Provisional Acceptance Form attached hereto as Attachment N. Within ten (10) days of the date of such notice, Company shall in writing give Bechtel notice of Company's Provisional Acceptance (Tank S-105) of Tank S-105, or written notice of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors, related to Tank S-105. In the latter instance, the foregoing procedure with respect to such specified unfinished Services and work will be repeated. Company's use of the Phase 2 Project shall not constitute Provisional Acceptance (Tank S-105). If Company fails to give the required notice within the specified period above, provided that Bechtel gave notice of Provisional Acceptance (Tank S-105) on the required Notice of Provisional Acceptance Form, and provided further that Bechtel has reasonably complied with the requirements for achieving Provisional Acceptance (Tank S-105), as defined herein, then Bechtel shall be deemed to have achieved Provisional Acceptance (Tank S-105), but only as between Bechtel and Company, and not with respect to any Company Contractor. Such Provisional Acceptance (Tank S-105) shall not relieve Bechtel of any obligations surviving Provisional Acceptance (Tank S-105), Final Acceptance or of any Defective Services.

**11.6 Final Acceptance.** After Provisional Acceptance (BOP), Provisional Acceptance (Tank S-104), and Provisional Acceptance (Tank S-105), Bechtel shall ensure that all items on the Punchlist are completed unless Company in writing excuses the completion of certain Punchlist items. Once all items on the Punchlist have been completed or excused in writing by Company, Bechtel shall give notice to Company, on the Notice of Final Acceptance Form attached hereto as Attachment O, that all the requirements for Final Acceptance have been met. Within thirty (30) days of the date of such notice, Company shall give Bechtel written notice of Company's Final Acceptance of the Phase 2 Project, or will advise Bechtel in writing of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors. Upon completion of such Services and the completion of such work by Company Contractors, Bechtel shall so notify Company in writing, using the Notice of Final Acceptance Form attached hereto as Attachment O. Within ten (10) days of the date of such notice, Company shall in writing give Bechtel notice of

Company's Final Acceptance or written notice of any Services remaining to be performed by Bechtel and any work remaining to be performed by Company Contractors. In the latter instance, the foregoing procedure with respect to such specified unfinished Services and work will be repeated. Company's use of the Phase 2 Project shall not constitute Final Acceptance of the Phase 2 Project. If Company fails to give the required notice within the specified period above, provided that Bechtel gave notice of Final Acceptance on the required Notice of Final Acceptance Form, and provided further that Bechtel has reasonably complied with the requirements for achieving Final Acceptance, as defined herein, then Bechtel shall be deemed to have achieved Final Acceptance, but only as between Bechtel and Company, and not with respect to any Company Contractor. Final Acceptance shall not relieve Bechtel of any obligations surviving Final Acceptance or of any Defective Services. Bechtel shall not be required to perform any further Services other than the Services specified in Section 13.1.2 after Final Acceptance, except that Company may request Construction Management Services limited to management of warranty or remedial work by Company Contractors after Final Acceptance.

For the purpose of this Section 11.6, failure by a Company Contractor to complete items on its Punchlist or obtain conditional or unconditional lien and claim waivers from any Company Contractor despite Bechtel's best efforts to enforce the terms of the Company Contracts, short of arbitration or litigation, shall excuse Bechtel from the completion of such Punchlist items or obtaining such lien and claim waivers, and shall not be a basis for Company to deny or object to Final Acceptance of Bechtel's performance under this Agreement.

## ARTICLE 12 INDEMNITY

12.1 General Indemnification. In addition to its indemnification, defense and hold harmless obligations contained elsewhere in this Agreement, Bechtel shall indemnify, hold harmless and defend the Company Group from any and all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) to the extent that such damages, losses, costs and expenses result from any of the following:

12.1.1 FAILURE OF BECHTEL OR ITS SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, BUT ONLY TO THE EXTENT OF ANY FINES AND PENALTIES IMPOSED ON COMPANY RESULTING FROM BECHTEL'S FAILURE TO (I) COMPLY WITH APPLICABLE LAW OR (II) SECURE FROM GOVERNMENTAL INSTRUMENTALITIES THE PERMITS AND APPROVALS REQUIRED UNDER THIS AGREEMENT TO BE OBTAINED BY BECHTEL FOR THE CONSTRUCTION OF THE PHASE 2 PROJECT;

12.1.2 ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES SUFFERED BY A THIRD PARTY AND RESULTING FROM ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY OWNED BY A THIRD PARTY TO THE EXTENT THAT SUCH VIOLATION OR INFRINGEMENT RESULTS FROM PERFORMANCE OF THE SERVICES BY BECHTEL OR ANY OF ITS SUBCONTRACTORS OR ANY IMPROPER USE OF THIRD PARTY CONFIDENTIAL INFORMATION OR OTHER THIRD PARTY PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO BECHTEL OR ANY OF ITS SUBCONTRACTORS IN CONNECTION WITH THE SERVICES; PROVIDED, HOWEVER, THE FOREGOING INDEMNITY OBLIGATION SHALL NOT APPLY TO ANY PARTICULAR MANUFACTURER'S EQUIPMENT OR PROCESS SPECIFICALLY MANDATED IN WRITING BY COMPANY TO BE USED ON THE PHASE 2 FACILITY, BUT

ONLY IF BECHTEL GIVES WRITTEN NOTICE TO COMPANY ACKNOWLEDGING RECEIPT OF SUCH MANDATORY REQUIREMENT WITHIN THE LATER OF (I) THIRTY (30) DAYS AFTER THE DATE ON WHICH COMPANY MANDATES SUCH EQUIPMENT OR PROCESS OR (II) THIRTY (30) DAYS AFTER THE EFFECTIVE DATE. NOTWITHSTANDING THE FOREGOING, COMPANY'S DIRECTION TO BECHTEL TO USE ON THE PHASE 2 PROJECT ENGINEERING, DESIGNS, EQUIPMENT, MATERIALS OR PROCESSES USED ON THE PHASE 1 PROJECT, IN THE SAME MANNER AS ON THE PHASE 1 PROJECT, SHALL NOT RELIEVE BECHTEL OF ITS INDEMNITY OBLIGATIONS UNDER THIS SECTION UNLESS BECHTEL GIVES COMPANY NOTICE IN WRITING THAT THE RIGHTS GRANTED WITH RESPECT TO THE PHASE 1 PROJECT DO NOT PERMIT USE ON THE PHASE 2 PROJECT AND THAT AN ADDITIONAL ROYALTY IS OWED FOR USE ON THE PHASE 2 PROJECT, AND COMPANY FAILS TO PAY SUCH ROYALTY WHEN INVOICED TO COMPANY BY BECHTEL;

12.1.3 CONTAMINATION OR POLLUTION SUFFERED BY A THIRD PARTY TO THE EXTENT RESULTING FROM BECHTEL'S OR ANY BECHTEL SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ON THE SITE BY BECHTEL OR ANY SUBCONTRACTOR;

12.1.4 FAILURE BY BECHTEL OR ANY OF ITS SUBCONTRACTORS TO PAY TAXES FOR WHICH SUCH PERSON IS LIABLE;

12.1.5 FAILURE OF BECHTEL TO MAKE PAYMENTS TO ANY OF ITS SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT, BUT NOT EXTENDING TO ANY SETTLEMENT PAYMENT MADE BY COMPANY TO ANY BECHTEL SUBCONTRACTOR AGAINST WHICH BECHTEL HAS PENDING OR PROSPECTIVE CLAIMS, UNLESS SUCH SETTLEMENT IS MADE WITH BECHTEL'S CONSENT, EXCEPT AFTER ASSUMPTION OF SUCH BECHTEL SUBCONTRACT BY COMPANY IN ACCORDANCE WITH ARTICLE 20; OR

12.1.6 PERSONAL INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES OF ANY MEMBER OF THE BECHTEL GROUP, THE COMPANY GROUP, COMPANY CONTRACTOR OR ANY BECHTEL SUBCONTRACTOR, OR THE EMPLOYEES OF ANY LNG TANKER), AND DAMAGE TO OR DESTRUCTION OF PROPERTY OF THIRD PARTIES (OTHER THAN PROPERTY OF THE OWNERS OF LNG TANKERS OR COMPANY CONTRACTOR) TO THE EXTENT ARISING OUT OF OR RESULTING FROM THE NEGLIGENCE IN CONNECTION WITH THE SERVICES OF ANY MEMBER OF THE BECHTEL GROUP OR ANY BECHTEL SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM. NOTWITHSTANDING THE FOREGOING, BECHTEL SHALL HAVE NO OBLIGATION TO DEFEND, INDEMNIFY AND HOLD COMPANY GROUP HARMLESS FOR ANY CLAIMS, CAUSES OF ACTION, ALLEGATION AND ASSERTIONS TO THE EXTENT THAT COMPANY HAS INDEMNIFICATION OBLIGATIONS TO BECHTEL GROUP PURSUANT TO SECTION 12.7.

12.1.7 PERSONAL INJURY TO OR DEATH OF ANY EMPLOYEE, OFFICER OR DIRECTOR OF COMPANY CONTRACTORS OR ANY OF THEIR SUBCONTRACTORS, AND DAMAGE TO OR DESTRUCTION OF PROPERTY OF COMPANY CONTRACTORS OR ANY OF THEIR SUBCONTRACTORS TO THE EXTENT ARISING OUT OF OR RESULTING FROM THE NEGLIGENCE IN CONNECTION WITH THE SERVICES OF ANY MEMBER OF THE BECHTEL GROUP OR ANY BECHTEL SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, PROVIDED HOWEVER THAT THIS OBLIGATION TO DEFEND, INDEMNIFY AND HOLD COMPANY HARMLESS SHALL BE LIMITED TO THE PROCEEDS OF APPLICABLE INSURANCE SPECIFIED IN ATTACHMENT F "INSURANCE REQUIREMENTS."

12.2 Injuries to Bechtel's Employees and Damage to Bechtel's Property. Notwithstanding the provisions of Section 12.1.6, and except as otherwise provided in Article 15, Bechtel shall defend, indemnify and hold harmless the Company Group from and against all damages, losses, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses) arising out of or resulting from or related to (i) injury to or death of employees, officers or directors of any member of the Bechtel Group or any Bechtel Subcontractor or (ii) damage to or destruction of property of any member of the Bechtel Group or any Bechtel Subcontractor occurring in connection with the Services or the Phase 2 Project, regardless of the cause of such injury, death, damage or destruction, including the sole or joint negligence, breach of contract or other basis of liability of any member of the Company Group.

12.3 Injuries to Company's Employees and Damage to Company's Property. Except as otherwise provided in Section 15.1, Company shall defend, indemnify and hold harmless the Bechtel Group and Bechtel Subcontractors from and against all damages, losses, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses) resulting from or related to (i) injury to or death of any member of the Company Group or (ii) damage to or destruction of property of Company Group (excluding the Phase 1 Facility until "Substantial Completion" of the Phase 1 Facility, as defined in the Phase 1 EPC Agreement, or excluding the Phase 1 Facility until Company takes care, custody and control of the Phase 1 Facility, whichever occurs first) occurring in connection with the Phase 2 Project, regardless of the cause of such injury, death, damage or destruction, including the sole or joint negligence, breach of contract or other basis of liability of any member of the Bechtel Group or Bechtel Subcontractors.

12.4 Patent and Copyright Indemnification Procedure. In the event that any violation or infringement for which Bechtel is responsible to indemnify the Company Group as set forth in Section 12.1.2 results in any suit, claim, temporary restraining order or preliminary injunction Bechtel shall, in addition to its obligations under Section 12.1.2, make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order. If, in any such suit or claim, the Phase 2 Project, the Phase 2 Facility, or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, Bechtel shall promptly make every reasonable effort to secure for Company a license, at no cost to Company, authorizing continued use of the infringing Services or portion of the Phase 2 Facility. If Bechtel is unable to secure such a license within a reasonable time, Bechtel shall, at its own expense and without impairing performance requirements, either re-perform the affected Services and replace the affected portions of the Phase 2 Facility, in whole or part, with non-infringing components or parts or modify the same so that they become non-infringing.

12.5 Lien Indemnification. Should Bechtel or any Bechtel Subcontractor or any other Person acting through or under any of them file a lien or other encumbrance against all or any portion of the Phase 2 Project, the Site or the Phase 2 Facility, Bechtel shall, at its sole cost and expense, remove or discharge, by payment, bond or otherwise, such lien or encumbrance within twenty-one (21) days of Bechtel's receipt of written notice from Company notifying Bechtel of such lien or encumbrance; *provided that* Company shall have made payment of all amounts properly due and owing to Bechtel under this Agreement, other than amounts disputed in accordance with Section 8.1.1.3, *provided that* the amounts being withheld are not the basis of the lien or encumbrance. If Bechtel fails to remove or discharge any such lien or encumbrance within such twenty-one (21) Day period in



circumstances where Company has made payment of all amounts properly due and owing to Bechtel under this Agreement, other than amounts disputed in accordance with Section 8.1.1.3, *provided that* the amounts being withheld are not the basis of the lien or encumbrance, then Company may, in its sole discretion and in addition to any other rights that it has under this Agreement, remove or discharge such lien and encumbrance using whatever means that Company, in its sole discretion, deems appropriate, including the payment of settlement amounts that it determines in its sole discretion as being necessary to remove or discharge such lien or encumbrance. In such circumstance, Bechtel shall be liable to Company for all damages, costs, losses and expenses (including all reasonable attorneys' fees, consultant fees and arbitration expenses, and settlement payments) incurred by Company arising out of or relating to such removal or discharge. All such damages, costs, losses and expenses shall be paid by Bechtel no later than thirty (30) Days after receipt of each invoice from Company.

**12.6 Company's Failure to Comply with Applicable Law.** Company shall defend, indemnify and hold harmless the Bechtel Group from any and all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) arising out of or resulting from the failure of any member of Company Group to comply with Applicable Law, but only to the extent of any fines and penalties imposed on Bechtel resulting from Company's failure to (i) comply with Applicable Law or (ii) secure from Governmental Instrumentalities the Permits and approvals required under this Agreement to be obtained by Company for the construction of the Phase 2 Project.

**12.7 Landowner Claims.** Subject to Bechtel's indemnification obligations set forth in Sections 12.1.1 and 12.1.3, Company shall defend, indemnify and hold harmless the Bechtel Group from and against any and all damages, losses, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses) arising out of or resulting from claims occurring in connection with the Services and the Phase 2 Project and brought by any Landowner on whose land, right of way or easement Bechtel or any of its Subcontractors are performing the Services, including any claim from such Landowner related to damage to or destruction of property. Such indemnity shall apply regardless of the cause of such damages, losses, costs and expenses, including negligence, breach of contract or other basis of liability of any member of the Bechtel Group or any Subcontractor.

**12.8 Legal Defense.** Not later than fifteen (15) days after receipt of written notice from the Indemnified Party to the Indemnifying Party of any claims, demands, actions or causes of action asserted against such Indemnified Party for which the Indemnifying Party has indemnification, defense and hold harmless obligations under this Agreement, whether such claim, demand, action or cause of action is asserted in a legal, judicial, arbitral or administrative proceeding or action or by notice without institution of such legal, judicial, arbitral or administrative proceeding or action, the Indemnifying Party shall affirm in writing by notice to such Indemnified Party that the Indemnifying Party will indemnify, defend and hold harmless such Indemnified Party and shall, at the Indemnifying Party's own cost and expense, assume on behalf of the Indemnified Party and conduct with due diligence and in good faith the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to such Indemnified Party; *provided, however*, that such Indemnified Party shall have the right to be represented therein by advisory counsel of its own selection, and at its own expense; ~~and~~*provided further* that if the defendants in any such action or

proceeding include the Indemnifying Party and an Indemnified Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, such Indemnified Party shall have the right to select up to one separate counsel to participate in the defense of such action or proceeding on its own behalf at the reasonable expense of the Indemnifying Party. In the event of the failure of the Indemnifying Party to perform fully in accordance with the defense obligations under this Section 12.8, such Indemnified Party may, at its option, and without relieving the Indemnifying Party of its obligations hereunder, so perform, but all damages, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses, settlement payments and judgments) so incurred by such Indemnified Party in that event shall be reimbursed by the Indemnifying Party to such Indemnified Party, together with interest on same from the date any such cost and expense was paid by such Indemnified Party until reimbursed by the Indemnifying Party at the interest rate set forth in Section 8.3 of this Agreement.

#### 12.9 Enforceability.

12.9.1 EXCEPT AS OTHERWISE SET FORTH IN SECTIONS 12.2 AND 12.3, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR PERSONAL INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT SHALL APPLY REGARDLESS OF WHETHER THE INDEMNIFIED PARTY WAS CONCURRENTLY NEGLIGENT (WHETHER ACTIVELY OR PASSIVELY), IT BEING AGREED BY THE PARTIES THAT IN THIS EVENT, THE PARTIES' RESPECTIVE LIABILITY OR RESPONSIBILITY FOR SUCH DAMAGES, LOSSES, COSTS AND EXPENSES UNDER THIS ARTICLE 12 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

12.9.2 COMPANY AND BECHTEL AGREE THAT THE LOUISIANA OILFIELD ANTI-INDEMNITY ACT, LA. REV. STAT. § 9:2780, ET. SEQ., IS INAPPLICABLE TO THIS AGREEMENT AND THE PERFORMANCE OF THE SERVICES. APPLICATION OF THESE CODE SECTIONS TO THIS AGREEMENT WOULD BE CONTRARY TO THE INTENT OF THE PARTIES, AND EACH PARTY HEREBY IRREVOCABLY WAIVES ANY CONTENTION THAT THESE CODE SECTIONS ARE APPLICABLE TO THIS AGREEMENT OR THE SERVICES. IN ADDITION, IT IS THE INTENT OF THE PARTIES IN THE EVENT THAT THE AFOREMENTIONED ACT WERE TO APPLY THAT EACH PARTY SHALL PROVIDE INSURANCE TO COVER THE LOSSES CONTEMPLATED BY SUCH CODE SECTIONS AND ASSUMED BY EACH SUCH PARTY UNDER THE INDEMNIFICATION PROVISIONS OF THIS AGREEMENT, AND BECHTEL AGREES THAT THE FIXED FEE (AS MAY BE ADJUSTED BY CHANGE ORDER IN ACCORDANCE WITH ARTICLE 7) COMPENSATES BECHTEL FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THIS AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

12.9.3 IN THE EVENT THAT ANY INDEMNITY PROVISIONS IN THIS AGREEMENT ARE CONTRARY TO THE LAW GOVERNING THIS AGREEMENT, THEN THE INDEMNITY OBLIGATIONS APPLICABLE HEREUNDER SHALL BE APPLIED TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW.

12.10 Risk of Loss. Bechtel shall have no liability for loss of or damage to the Phase 2 Project, and Company releases Bechtel Group from any and all liability for damage to or destruction of the

Phase 2 Project. Company shall defend, indemnify and hold harmless Bechtel Group and Bechtel Subcontractors from any and all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation expenses) arising out of or resulting from damage to or destruction of Phase 2 Project that are asserted or claimed by Company Contractors, their insurers or subcontractors, regardless of the cause of such damage or destruction, including the sole or joint negligence or other basis of liability of any member of Bechtel Group or Bechtel Subcontractors, but only to the extent of receipt by Company of insurance proceeds. Notwithstanding anything to the contrary, in no event shall this Section 12.10 be construed as limiting in any way Bechtel's responsibilities under Article 13.

12.11 LNG Tanker Release. Company shall endeavor to obtain a release of Bechtel Group and Company Group from the owner of any LNG tanker and related LNG cargo from any and all damages, losses, costs and expenses arising out of or resulting from claims for damage to or destruction of an LNG tanker and loss of the related LNG cargo or personal injury or death of any employee, officer or director employed by the company operating, owning or leasing such LNG tanker or owning the related LNG cargo in connection with the delivery of LNG of any LNG tanker to the Phase 2 Project where such damage, destruction, loss, injury or death occurs prior to Final Acceptance. Company shall endeavor to obtain a release which shall apply regardless of the cause of such damage, destruction, injury or death, including the sole or joint negligence, breach of contract or other basis of liability of any member of the Bechtel Group and any member of the Company Group. If Company is unable to obtain such release, Company shall add Bechtel as an additional insured to Company's marine terminal liability insurance policy that Company procures after substantial completion of the Phase 1 Facility; such coverage as an additional insured shall not extend beyond the expiration of the last Defect Correction Period during which Bechtel is performing Services on the Phase 2 Project.

## ARTICLE 13 WARRANTIES AND LIMITATIONS OF LIABILITY

### 13.1 Warranties.

#### 13.1.1 Bechtel warrants that:

13.1.1.1 all materials, supplies and equipment (and each component thereof) furnished by Bechtel or its Subcontractors shall be new (unless otherwise specified) and of good quality;

13.1.1.2 the Services shall be in accordance with all of the requirements of this Agreement, including in accordance with GECMP, Applicable Law and Applicable Codes and Standards; and

13.1.1.3 all equipment, materials and supplies furnished by Bechtel or its Subcontractors to be incorporated into the Phase 2 Project shall be free from encumbrances to title, as set forth in greater detail in Article 18.

The warranties set forth in this Section 13.1.1 are individually referred to as a "Warranty" or collectively as the "Warranties." Any Services, or component thereof, that is not in conformity with any Warranty is "Defective" or a "Defect."

13.1.2 Provided Company has notified Bechtel in writing, within a reasonable time after Company's discovery of a Defect in the Services at any time during the performance of the Services and within eighteen (18) months after Provisional Acceptance (BOP) with respect to the Balance of Plant, and within eighteen (18) months after Provisional Acceptance (Tank S-104) with respect to Tank S-104, and within eighteen (18) months after Provisional Acceptance (Tank S-105) with respect to Tank S-105 (each such period during the performance of the Services and for eighteen (18) months after the respective Provisional Acceptance hereinafter called "Defect Correction Period"), stating with reasonable specificity the reasons Company believes such Services are Defective, Bechtel shall promptly correct (by repair, replacement, re-performance or otherwise) such Defective Services and perform any other Services, including construction and management Services, necessary to correct such Defective Services ("Corrective Services"). Notwithstanding the foregoing, the Defect Correction Period for each of the respective Provisional Acceptances for BOP, Tank S-104 and Tank S-105 shall not extend beyond thirty (30) months from the date for each of the respective Provisional Acceptances. Bechtel shall be reimbursed as a Recoverable Cost, as determined in accordance with this Agreement, for performing Corrective Services, including the cost of field labor, field supervision, materials and equipment, *provided that* in no case shall Bechtel be entitled to payment for any costs associated with design; engineering; construction management; or for the costs of field personnel above a rank of general foreman or greater. Bechtel shall not be entitled to any increase in the Fixed Fee or to the payment of any other fee in connection with the performance of Corrective Services.

13.1.3 Company shall give Bechtel reasonable access to the Phase 2 Facility sufficient to perform the Corrective Services, so long as such access does not unreasonably interfere with the operation of the Facility and subject to any reasonable security or safety requirements of Company.

13.1.4 If Bechtel fails to commence the Corrective Services within a reasonable period of time not to exceed twenty (20) Working Days after notice by Company, or does not complete the Correct Services promptly (and *provided that* Company provides Bechtel with access to the Phase 2 Facility in accordance with this Article), then Company, upon providing prior written notice to Bechtel, may perform such Corrective Services, and Bechtel shall be liable to Company for the reasonable costs incurred by Company in connection with performing such Corrective Services, which costs shall be at rates comparable to those charged by Bechtel, and Bechtel shall pay Company, within twenty (20) days after receipt of written notice from Company, an amount equal to such costs (or, at Company's sole discretion, Company may withhold amounts owed to Bechtel in accordance with this Agreement). To the extent that any Corrective Services are performed by or on behalf of Company, Bechtel's obligations with respect to such Defective Services that are corrected by or on behalf of Company shall be relieved, with the exception of Bechtel's obligations to pay Company the reasonable costs incurred by Company in connection with performing such Corrective Services.

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13.1.5 Notwithstanding anything contained in this Section 13.1, Bechtel shall have no liability to Company for any defective services to the extent such defect was caused by:

13.1.5.1 improper repairs or alterations, misuse, neglect or accident by Company;

13.1.5.2 operation, maintenance or use of the Phase 2 Project or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Bechtel or Company Contractors to Company;

13.1.5.3 defects in the materials, equipment and supplies supplied by Company Contractors;

13.1.5.4 defects, errors or omissions in the work or services performed by Company Contractors;

13.1.5.5 normal wear and tear;

13.1.5.6 normal corrosion; or

13.1.5.7 an event of Force Majeure.

13.1.6 Bechtel shall, without additional cost to Company, obtain from any of Bechtel's Affiliates that are Subcontractors on the Phase 2 Project, and shall make reasonable efforts to obtain from all other Bechtel Subcontractors on the Phase 2 Project, warranties that meet or exceed the requirements of this Agreement; *provided, however*, Bechtel shall not in any way be relieved of its responsibilities and liability to Company under this Agreement, regardless of whether such Bechtel Subcontractor warranties meet the requirements of this Agreement, as Bechtel shall be fully responsible and liable to Company for its Warranty and Corrective Services obligations and liability under this Agreement for all Services. Bechtel shall assign such warranties to Company upon Final Acceptance. This Section 13.1.6 shall not in any way be construed to limit Bechtel's liability under this Agreement for the Services or its obligation to enforce warranties from Bechtel Subcontractors.

13.1.7 The warranty on equipment, materials and supplies procured and incorporated into the Phase 2 Project by Bechtel and its Subcontractors shall be limited to assignment of such vendor and manufacturer warranties provided to Bechtel and its Subcontractors to Company; provided that during the Defect Correction Period, Bechtel shall perform Services to assist Company in enforcing such vendor and manufacturer warranties at Recoverable Costs; and provided further that if equipment, materials or supplies fail to perform because of Defective engineering by Bechtel, including Defective specifications with respect to such equipment, materials or supplies, then Bechtel shall perform Corrective Services with respect to such equipment, materials and supplies.

13.1.8 Bechtel does not warrant the services and work performed by Company Contractors.

13.1.9 With respect to any Corrective Services performed by Bechtel, the Defect Correction Period for such Corrective Services shall be extended for an additional one (1) year from the date of the completion of such Corrective Services; *provided, however*, in no event shall the Defect Correction Period for any Services (including Corrective Services) extend beyond thirty (30) months after Final Acceptance.

13.1.10 All Corrective Services shall be performed subject to the same terms and conditions under this Agreement as the original Services are required to be performed.

13.1.11 Bechtel shall not be liable to Company for any Defective Services discovered after the expiration of the Defect Correction Period (as may be extended pursuant to this Article), except for any liability of Contractor pursuant to its indemnification, defense and hold harmless obligations under this Agreement.

13.1.12 The Warranties made in this Agreement shall be for the benefit of Company and its successors and permitted assigns and the respective successors and permitted assigns of any of them, and are fully transferable and assignable.

13.1.13 THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT (INCLUDING WARRANTIES) ARE EXCLUSIVE AND THE PARTIES HEREBY DISCLAIM, AND COMPANY HEREBY WAIVES ANY AND ALL WARRANTIES IMPLIED UNDER APPLICABLE LAW (INCLUDING THE GOVERNING LAW SPECIFIED IN ARTICLE 26), INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

#### 13.2 Limitation of Liability.

13.2.1 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER COMPANY GROUP NOR BECHTEL GROUP SHALL BE LIABLE UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, PROFESSIONAL LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF USE, LOSS OF OPPORTUNITY, LOSS OF REVENUES, LOSS OF FINANCING, LOSS OR INCREASE OF BONDING CAPACITY, COSTS OF OBTAINING OR MAINTAINING FINANCING, LOSS OF GOODWILL, OR BUSINESS INTERRUPTION, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE ("CONSEQUENTIAL DAMAGES") AND COMPANY SHALL RELEASE BECHTEL GROUP AND BECHTEL GROUP SHALL RELEASE COMPANY GROUP FROM ANY LIABILITY FOR SUCH CONSEQUENTIAL DAMAGES.

13.2.2 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, BECHTEL GROUP SHALL NOT BE LIABLE TO COMPANY GROUP UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, PROFESSIONAL LIABILITY, INDEMNITY, CONTRIBUTION OR ANY OTHER CAUSE OF ACTION, IN EXCESS OF A CUMULATIVE AGGREGATE AMOUNT OF FIFTY PERCENT

(50%) OF THE FIXED FEE (AS ADJUSTED BY CHANGE ORDER), AND COMPANY SHALL RELEASE BECHTEL GROUP FROM ANY LIABILITY IN EXCESS THEREOF; *PROVIDED THAT*, NOTWITHSTANDING THE FOREGOING, THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 13.2.2 SHALL NOT (I) APPLY TO (A) BECHTEL'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 12.1.2, 12.1.5, 12.1.6, 12.2 OR 12.5; (B) BECHTEL'S OBLIGATIONS UNDER SECTION 18.1; OR (II) INCLUDE THE PROCEEDS PAID UNDER ANY INSURANCE POLICY THAT BECHTEL OR ITS SUBCONTRACTORS IS REQUIRED TO OBTAIN PURSUANT TO THIS AGREEMENT. IN NO EVENT SHALL THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 13.2.2 BE IN ANY WAY DEEMED TO LIMIT BECHTEL'S OBLIGATION TO PERFORM ALL SERVICES REQUIRED TO ACHIEVE FINAL ACCEPTANCE.

13.2.3 EXCEPT TO THE EXTENT EXPRESSLY PROHIBITED BY LAW OR EXPRESSLY STATED IN THIS AGREEMENT TO THE CONTRARY, THE WAIVERS AND DISCLAIMERS OF LIABILITY, EXCLUSIONS, LIMITATIONS AND APPORTIONMENTS OF LIABILITY SHALL APPLY EVEN IN THE EVENT OF THE FAULT, NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, OR OTHERWISE OF THE PARTY RELEASED OR WHOSE LIABILITY IS WAIVED, DISCLAIMED, LIMITED OR FIXED, AND SHALL EXTEND IN FAVOR OF ALL MEMBERS OF THE COMPANY GROUP OR THE BECHTEL GROUP, AS THE CASE MAY BE.

#### ARTICLE 14 INSURANCE

14.1 The Parties shall provide the insurance as specified in Attachment F "Insurance Requirements" attached hereto and incorporated by reference. Cost of insurance procured by Bechtel as required under Attachment "F", including the costs and fees incurred to procure such insurance, shall be a Recoverable Cost.

14.2 If any Party fails to provide or maintain insurance as required herein, and fails to cure such failure within fourteen (14) days of receiving notice of such failure *provided that* such fourteen (14) day cure period falls within the applicable sixty (60) day notice period required under Section 2 of Attachment F), the other Party shall have the right but not the obligation to purchase such insurance. Costs and fees incurred by Bechtel to procure such insurance shall be Recoverable Costs.

14.3 If any insurance (including the limits or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Company and Bechtel shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by (a) the Lender's insurance adviser and (b) an independent adviser, who may be an insurance broker, of recognized international standing, each certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the required amount is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

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#### ARTICLE 15 HAZARDOUS MATERIALS

15.1 Bechtel shall not, nor shall it permit or allow any Bechtel Subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Bechtel may bring onto the Phase 2 Site such Hazardous Materials as are necessary to perform the Services so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and any applicable health and safety plans, and Bechtel shall remain responsible and liable for all such Hazardous Materials. If Bechtel or any Bechtel Subcontractor, or any Company Contractor or subcontractors encounter pre-existing Hazardous Materials at the Phase 2 Site, and Bechtel or any such Bechtel Subcontractor knows or suspects that such material is Hazardous Material, Bechtel and its Subcontractors shall promptly stop performing Services in the affected area, and Bechtel shall instruct any Company Contractors and subcontractors to promptly stop performing work in the affected area; Bechtel shall further notify Company and wait for instructions from Company before resuming any Services or construction work in the affected area.

15.2 Company shall remove, transport and, as appropriate, dispose of any Hazardous Materials discovered or released at the Phase 2 Site, including any Hazardous Materials brought on the Phase 2 Site or generated by Third Parties, but excluding any Hazardous Materials brought on to the Phase 2 Site or generated by Bechtel or any of its Subcontractors. COMPANY SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS BECHTEL GROUP FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES AND LITIGATION OR ARBITRATION EXPENSES) INCURRED BY BECHTEL GROUP TO THE EXTENT ARISING FROM ANY CONTAMINATION OR POLLUTION RESULTING FROM ANY HAZARDOUS MATERIALS FOR WHICH COMPANY IS RESPONSIBLE UNDER THIS SECTION.

#### ARTICLE 16 INTELLECTUAL PROPERTY RIGHTS

##### 16.1 Work Product, Bechtel's Intellectual Property and Third Party Proprietary Work Product

16.1.1 Company and Bechtel acknowledge that during the course of, and as a result of, the performance of the Services and prior work related to the Phase 2 Facility done by Bechtel for Company, Bechtel or Bechtel Subcontractors will create, or have created, for this Phase 2 Project and will deliver, or have delivered, to Company, certain written materials, plans, drawings (including P&IDs), specifications, or other tangible results of performance of the Services under this Agreement or performance of work under other agreements related to the Phase 2 Facility (hereinafter individually or collectively referred to as "Work Product"). Subject to this Section 16.1.1, Company shall own all rights, title and interest to the Work Product and any and all intellectual property rights in the Work Product (including all patents and applications therefor, all inventions, trade secrets, know-how, technology, technical data, customer lists, copyrights and all registrations and applications therefor, and all industrial designs) irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Bechtel, a Bechtel Subcontractor or any other Person. Notwithstanding the foregoing, Bechtel shall retain ownership of all intellectual property rights previously owned by Bechtel and developed by it outside this Agreement, the Phase 1 EPC Agreement, and all memoranda of understanding and technical services agreements



related to the Phase 2 Facility (hereinafter referred to as “Bechtel’s Intellectual Property”), regardless of whether such Bechtel’s Intellectual Property is embedded in the Work Product, and nothing in this Agreement shall result in a transfer of ownership of either Bechtel’s Intellectual Property or the intellectual property rights previously owned and developed by Bechtel Subcontractors outside this Agreement, the Phase 1 EPC Agreement and all other agreements related to the Phase 1 Facility and the Phase 2 Facility (“Third Party Proprietary Work Product”). The ownership rights with respect to documents prepared under the Phase 1 EPC Agreement are governed by the Phase 1 EPC Agreement.

16.1.2 Company shall be entitled to use the Work Product and Bechtel hereby grants Company an irrevocable and royalty-free license to use and (subject to Section 16.1.3) modify Bechtel’s Intellectual Property and Third Party Proprietary Work Product which in either case is embedded in the Work Product relating to the Phase 2 Facility, in each case solely for the purpose of: (i) operating and maintaining the Phase 2 Facility; (ii) training operators for the Phase 2 Facility; and (iii) repairing, replacing, expanding, completing or modifying any part of the Phase 2 Facility. Company shall be entitled to assign its rights in the Work Product and in such license; *provided that* such assignee shall only be entitled to use the Work Product and Bechtel’s Intellectual Property and Third Party Proprietary Work Product which is embedded in the Work Product for the purposes specified in clauses (i) through (iii) above.

16.1.3 In addition, Company or its contractors shall be entitled to modify (a) the Work Product or (b) Bechtel’s Intellectual Property embedded in the Work Product in connection with the purposes set forth in clauses (i) through (iii) in Section 16.1.2; *provided that* Company shall first remove, or cause to be removed, all references to Bechtel from the Work Product and Bechtel’s Intellectual Property embedded in the Work Product. COMPANY SHALL DEFEND, INDEMNIFY AND HOLD THE BECHTEL GROUP HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS’ FEES AND LITIGATION OR ARBITRATION EXPENSES) INCURRED BY ANY MEMBER OF THE BECHTEL GROUP AND CAUSED BY ANY MODIFICATIONS BY COMPANY OR ITS CONTRACTORS TO THE WORK PRODUCT OR BECHTEL’S INTELLECTUAL PROPERTY.

16.1.4 In addition, Company’s Affiliates shall be entitled to use the Work Product, and Bechtel hereby grants to Company’s Affiliates an irrevocable and royalty-free license, non-transferable and non-assignable (except as set forth below) to use Bechtel’s Intellectual Property embedded in the Work Product, in each case solely for the purpose of developing other projects, including the Corpus Christi and Creole Trail projects, *provided that* (i) Company’s Affiliates shall first remove all references to Bechtel and the Phase 2 Project from the Work Product and Bechtel’s Intellectual Property embedded in the Work Product; (ii) the use of any of Bechtel’s Intellectual Property on such other projects shall be limited to such Bechtel’s Intellectual Property which is embedded in the Work Product; and (iii) Company’s Affiliates shall not assign such Work Product or license without Bechtel’s consent, which consent shall not be unreasonably withheld. COMPANY SHALL DEFEND, INDEMNIFY AND HOLD THE BECHTEL GROUP HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS’ FEES AND LITIGATION OR ARBITRATION EXPENSES) INCURRED BY ANY MEMBER OF THE BECHTEL GROUP AND CAUSED BY USE OF THE WORK PRODUCT OR BECHTEL’S

16.1.5 Bechtel shall identify which portions of the Work Product contain Third Party Proprietary Work Product for which Company's Affiliates shall need to obtain permission from the appropriate owners of such Third Party Proprietary Work Product for use by Company's Affiliates on projects other than the Phase 2 Project. Notwithstanding anything to the contrary in this Agreement, no license is granted to Company with respect to the use of any Bechtel proprietary software or systems.

16.1.6 COMPANY SHALL DEFEND, INDEMNIFY AND HOLD THE BECHTEL GROUP HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES AND LITIGATION OR ARBITRATION EXPENSES) FOR CLAIMS OR CAUSES OF ACTIONS BROUGHT BY A THIRD PARTY AGAINST THE BECHTEL GROUP FOR ACTUAL OR ASSERTED VIOLATION OF OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY OWNED BY A THIRD PARTY TO THE EXTENT THAT SUCH VIOLATION OR INFRINGEMENT RESULTS FROM THE USE OF SUCH INTELLECTUAL PROPERTY PROVIDED TO BECHTEL FOR USE ON THE PHASE 2 PROJECT BY COMPANY CONTRACTOR AND FURTHER PROVIDED THAT SUCH INTELLECTUAL PROPERTY WAS NOT USED IN THE PHASE 1 FACILITY.

16.2 Return/Delivery of Certain Property. All Work Product, and all copies thereof, shall be returned or delivered to Company upon the earlier of (i) two (2) years after the date of Final Acceptance of the entire Phase 2 Project and (ii) termination of this Agreement, except that (a) Bechtel may, subject to its confidentiality obligations set forth in Article 17, retain one record set of the Work Product and may use and modify such Work Product in accordance with Section 16.3, and (b) Bechtel Subcontractors may retain any Work Product generated by them so long as Company has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible drawings, where applicable; and two (2) sets each of fully editable and operable native and .pdf files of documents on CD for all such drawings and specifications.

16.3 Bechtel's Right to Use of Work Product. With the exception of any granted United States patents owned, or pending patents filed by, Company or any of Company's Affiliates, Company hereby grants Bechtel an irrevocable and royalty-free license to use and modify the Work Product for any other project, *provided that* Bechtel removes from the Work Product any reference to the Phase 1 Project, the Phase 2 Project or Company.

16.4 Company Provided Documents. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Company or any of Company's Contractors shall at all times remain the property of Company, and Bechtel shall not make use of any such documents or other media for any other project or for any other purpose than as set forth herein. All such documents and other media, including all copies thereof, shall be returned to Company upon the earlier of (i) two (2) years after the date of Final Acceptance of the entire Phase 2 Project and (ii) termination of this Agreement, except that Bechtel may, subject to its confidentiality obligations as set forth in Article 17, retain one record set of such documents or other media.

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## ARTICLE 17 CONFIDENTIALITY

17.1 Bechtel's Obligations. Bechtel hereby covenants and warrants that Bechtel and its employees and agents shall not (without in each instance obtaining Company's prior written consent) disclose, make commercial or other use of, or give or sell to any Person, other than to members of the Bechtel Group and Bechtel Subcontractors as necessary to perform the Services, any information conspicuously marked and identified in writing as confidential and relating to the business, products, services, research or development, clients or customers of Company or any Company Affiliate, or relating to similar information of a Third Party who has entrusted such information to Company or any Company Affiliate (hereinafter individually or collectively, "Company's Confidential Information"). Prior to disclosing any such information to any Bechtel Subcontractor as necessary to perform the Services, Bechtel shall bind such Bechtel Subcontractor to the confidentiality obligations contained in this Section 17.1. Nothing in this Section 17.1 or this Agreement shall in any way prohibit Bechtel or any of its Subcontractors from making commercial or other use of, selling, or disclosing any of their respective Bechtel's Intellectual Property or Third Party Proprietary Work Product.

17.2 Company's Obligations. Company hereby covenants and warrants that Company and its employees and agents shall not (without in each instance obtaining Bechtel's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information: (i) any estimating, technical or pricing methodologies, techniques, know-how or information relating to the business, products, services, research or development of Bechtel conspicuously marked and identified in writing as confidential by Bechtel; or (ii) any of Bechtel's Intellectual Property or Third Party Proprietary Work Product which is conspicuously marked and identified in writing as confidential (hereinafter individually or collectively, "Bechtel's Confidential Information"). The Parties agree that (y) notwithstanding the foregoing, Company shall not be restricted from the use or disclosure of Work Product except as expressly set forth in Article 16; and (z) Company shall be entitled to disclose that portion of Bechtel's Intellectual Property and Third Party Proprietary Work Product for which Company has a license in, and which is to be used by Company for the purpose for which such license is granted pursuant to Section 16.1, *provided that*, with respect to such Bechtel's Intellectual Property and Third Party Proprietary Work Product, Company binds such disclosee to the confidentiality obligations contained in this Section 17.2.

17.3 Definitions. The term "Confidential Information" shall mean one or both of Bechtel's Confidential Information and Company's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "Receiving Party," and the Party to whom such confidentiality obligations are owed shall be referred to as the "Disclosing Party."

17.4 Exceptions. Notwithstanding Section 17.1 and Section 17.2, Confidential Information shall not include: (i) information which at the time of disclosure or acquisition is in the public domain, or which after disclosure or acquisition becomes part of the public domain without violation of Article 17; (ii) information which at the time of disclosure or acquisition was already in the possession of the Receiving Party or its employees or agents and was not previously acquired from the Disclosing Party or any of its employees or agents directly or indirectly; (iii) information which the Receiving Party can show was acquired by such entity after the time of disclosure or acquisition

hereunder from a Third Party without any confidentiality commitment, if, to the best of Receiving Party's or its employees' or agent's knowledge, such Third Party did not acquire it, directly or indirectly, from the Disclosing Party or any of its employees or agents; (iv) information independently developed by the Receiving Party without benefit of the Confidential Information; and (v) information which a Party believes in good faith is required to be disclosed in connection with the Phase 2 Project by Applicable Law, any Governmental Instrumentality (including the FERC), applicable securities laws or the rules of any stock exchange; *provided, however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed.

17.5 Equitable Relief. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 17, the Disclosing Party would suffer irreparable harm for which remedies at law, including damages, would be inadequate, and that the Disclosing Party shall be entitled to seek equitable relief therefor by injunction, without the requirement of posting a bond.

17.6 Term. The confidentiality obligations of this Article 17 shall expire upon the earlier of a period of ten (10) years following (i) the termination of this Agreement or (ii) Final Completion.

#### ARTICLE 18 TITLE TO MATERIALS, EQUIPMENT AND SUPPLIES

18.1 Title to all or any portion of materials, equipment and supplies (other than the Work Product) procured by Bechtel or its Subcontractors for permanent incorporation into the Phase 2 Project shall pass to Company upon the earlier of (i) payment by Company therefore or (ii) delivery of such Services to the Site. Transfer of title to such materials, equipment and supplies shall be without prejudice to Company's right to reject Defective Services, or any other right in the Agreement.

18.2 Upon Final Acceptance of the Phase 2 Project, Bechtel shall leave all temporary facilities and surplus material and equipment at the Phase 2 Site for disposition by Company unless specifically instructed otherwise by Company. If instructed by Company, Bechtel shall dispose of such facilities, materials and equipment, and such costs to dispose shall be a Recoverable Cost and Bechtel shall remit to Company any proceeds obtained from such disposal.

#### ARTICLE 19 FORCE MAJEURE

19.1 Neither Party shall be considered in default in the performance of its obligations hereunder, except the obligations to make payments hereunder, to the extent that the performance of any such obligation is prevented or delayed by Force Majeure.

19.2 "Force Majeure" is defined as:

any act or event that (i) prevents or delays the affected Party's performance of its obligations in accordance with the terms of this Agreement, (ii) is beyond the reasonable control of the affected Party, not due to its fault or negligence and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence. Force Majeure may include catastrophic storms or floods, excessive rainfall, lightning, tornadoes, hurricanes, a named tropical storm, earthquakes and other acts of God, wars, civil disturbances,

revolution, acts of public enemy, acts of terrorism, credible threats of terrorism, revolts, insurrections, sabotage, riot, plague, epidemic, commercial embargoes, expropriation or confiscation of the Phase 2 Facility, fires, explosions, industrial action or strike (except as excluded below), and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party. For avoidance of doubt, Force Majeure shall not include any of the following, unless such condition or circumstance was otherwise caused by Force Majeure: (i) economic hardship; (ii) changes in market conditions; (iii) industrial actions and strikes involving only the employees of Bechtel or any of its Subcontractors; or (iv) nonperformance or delay by Bechtel or its Subcontractors.

19.3 Any costs incurred by Bechtel in exercising reasonable efforts to prevent, avoid, overcome or mitigate the effects of Force Majeure on the Phase 2 Project shall be deemed Recoverable Costs.

## ARTICLE 20    TERMINATION

### 20.1 Company's Right to Terminate for Convenience

20.1.1 Company may for its convenience terminate all or a portion of Bechtel's Services at any time by giving Bechtel thirty (30) days' prior written notice of such termination, whereupon Bechtel shall:

20.1.1.1 stop the performance of the terminated Services, except as may be necessary to carry out such termination;

20.1.1.2 issue no further Bechtel Subcontracts for the terminated Services except with the written consent of Company;

20.1.1.3 assign to Company, upon Company's request, all of Bechtel's rights, if any, under Bechtel Subcontracts then outstanding, except for any Bechtel Subcontracts with BEO or its affiliates to furnish construction equipment and tools which shall not be assignable;

20.1.1.4 terminate, to the extent possible and at Company's written request, outstanding Subcontracts; and

20.1.1.5 take any other action toward termination of Bechtel's Services which Company may reasonably direct.

20.1.2 Upon such termination for convenience, Bechtel shall be paid the following amounts no later than twenty five (25) days after submission of Bechtel's invoice(s) therefor: (i) all Recoverable Costs incurred through the date of termination, less amounts previously paid to Bechtel; (ii) all Fixed Fee earned on Services performed through the date of termination, less amounts previously paid to Bechtel; and (iii) all Recoverable Costs reasonably incurred by Bechtel on account of such termination (which costs shall be adequately documented and supported by Bechtel), including cancellation charges owed by Bechtel to its Subcontractors (*provided that* Company does not take assignment of such Subcontracts) and costs associated with demobilization of Bechtel's and its Subcontractors' personnel and construction equipment.

20.1.3 After such termination, Bechtel shall not have any liability to Company for incomplete Services: including drawings and specification not Issued for Construction incomplete construction Services.

## 20.2 Company's Right to Terminate for Default

20.2.1 If Bechtel shall at any time: (i) fail to commence the Services in accordance with the provisions of this Agreement; (ii) abandon the Services; (iii) repudiate or fail to materially comply with any of its material obligations under this Agreement; (iv) be in Default pursuant to Section 25.1; (v) materially disregard Applicable Law or Applicable Standards and Codes; or (vi) experience an Insolvency Event (each of the foregoing being a "Default") then, Company has the right (without prejudice to any other rights under the Agreement) to provide written notice to Bechtel specifying the nature of the Default and demanding that such Default be cured. If: (a) with respect to any clause above (with the exception of clause (vi)), (1) Bechtel fails to cure such Default within thirty (30) days after receipt of such notice or, (2) if the Default cannot be cured within such thirty (30) day period through the diligent exercise of all commercially practicable efforts, Bechtel fails to diligently exercise all commercially practicable efforts to cure such condition or fails to cure such condition within ninety (90) days after receipt of such notice to cure such Default; or (b) Bechtel experiences an Insolvency Event, Company, in the event of (a) or (b), at its sole option and, without prejudice to any other rights that it has under this Agreement and, upon notice to Bechtel, may (y) take such steps as are reasonably necessary to overcome the Default condition, in which case Bechtel shall be liable to Company for any and all reasonable costs and expenses (including all reasonable attorneys' fees, consultant fees and arbitration expenses) incurred by Company in connection therewith, or (z) terminate for Default Bechtel's performance of all of the Services.

20.2.2 In the event that Company terminates this Agreement for Default in accordance with Section 20.2.1, then Company may, at its sole option, (i) take possession of the materials, equipment and Work Product, (ii) take assignment of any or all of the Bechtel Subcontracts (with the exception of any Subcontracts with Bechtel Affiliates); and (iii) take assignment of any rental agreement with BEO (for a period of no more than ninety (90) days with respect to such rental agreement); and/or (iii) either itself or through others complete the Services.

20.2.3 Upon termination for Default in accordance with Section 20.2.1, Bechtel shall (i) immediately discontinue Services on the date specified in the notice; (ii) place no further orders for Bechtel Subcontractors or any other items or services; (iii) inventory, maintain and turn over to Company all construction equipment rented by Bechtel (for a period of no more than ninety (90) days with respect to construction equipment rented from BEO) and, in each case, present on the Phase 2 Site prior to Bechtel's receipt of the termination notice or provided by Company for performance of the terminated Services; (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Company of all Bechtel Subcontracts; (v) cooperate with Company in the transfer of Work Product, including drawings and specifications, permits and any other items or information and disposition of Services in progress so as to mitigate damages; (vi) comply with other reasonable requests from Company regarding the terminated Services; and (vii) thereafter preserve and protect Services already in progress and to

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protect equipment and materials at the Phase 2 Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards.

20.2.4 Upon termination for Default in accordance with Section 20.2.1, Bechtel shall not be entitled to any further payment from Company, and Company shall have no further obligation to make any payment to Bechtel. If Company has paid in advance to Bechtel amounts not yet earned under the Agreement because of the Concurrent Funding Request payment system specified in Article 8, Bechtel shall promptly repay such amounts to Company.

20.3 Bechtel's Right to Terminate for Default If Company shall at any time: (i) fail to pay any undisputed amount; (ii) fail to materially comply with any of its material obligations under this Agreement (but only to the extent such material failure and the impact thereof is not subject to adjustment by Change Order as set forth in Article 7); or (iii) experience an Insolvency Event, then, Bechtel has the right (without prejudice to any other rights under the Agreement) to provide written notice to Company specifying the nature of Company's default hereunder and demanding that such default be cured. If: (a) with respect to clause (i) Company fails to cure such default within forty-five (45) days after receipt of such notice; (b) with respect to clause (ii), (1) Company fails to cure such default within thirty (30) days after receipt of such notice or, (2) if the default cannot be cured within such thirty (30) day period through the diligent exercise of all commercially practicable efforts, Company fails to diligently exercise all commercially practicable efforts to cure such condition or fails to cure such condition within sixty (60) days after receipt of such notice to cure such default; or (c) Company experiences an Insolvency Event; then Bechtel may, in the event of (a), (b) or (c), at its sole option and without prejudice to any other rights that it has under this Agreement, and upon notice to Company, terminate this Agreement. In the event of such termination under this Section 20.3, Bechtel shall have the rights (and Company shall make the payments) provided for in Section 20.1 in the event of an Company termination for convenience.

20.4 Right to Terminate for Extended Force Majeure In the event (i) any one Force Majeure event or the effects thereof causes suspension of a substantial portion of the work at the Phase 2 Site for a period exceeding ninety (90) consecutive days or (ii) any one or more Force Majeure events or the effects thereof causes suspension of a substantial portion of the work at the Phase 2 Site for a period exceeding one hundred and eighty (180) days in the aggregate during any continuous twenty-four (24) month period, then either Party shall have the right to terminate this Agreement by providing fourteen (14) days' written notice of termination to the other Party, to be effective upon receipt by such other Party. In the event of such termination, Bechtel shall have the rights (and Company shall make the payments) provided for in Section 20.1.2.

#### ARTICLE 21   SUSPENSION OF SERVICES

21.1 Company may, for any reason, at any time and from time to time, by giving ten (10) days' prior written notice to Bechtel, suspend the carrying out of the Services or any part thereof, whereupon Bechtel shall suspend the carrying out of such suspended Services for such time or times as Company may require and shall take reasonable steps to minimize any costs associated with such suspension. During any such suspension, Bechtel shall properly protect and secure such suspended Services in such manner as Company may reasonably require. Unless otherwise instructed by Company, Bechtel shall during any such suspension maintain its staff and labor on or near the Phase

2 Site and otherwise be ready to proceed expeditiously with the Services as soon as reasonably practicable after receipt of Company's further instructions. If any significant suspension by Company continues for a period exceeding ninety (90) consecutive days, Bechtel may remove or reassign its Key Personnel affected by such suspension, provided that such suspension was not due to the fault or negligence of Bechtel or any Bechtel Subcontractor. As soon as reasonably practicable after receipt of notice to resume suspended Services, Bechtel shall promptly resume performance of the Services to the extent required in the notice. In no event shall Bechtel be entitled to any additional profits or damages due to such suspension, but only Recoverable Costs reasonably incurred by Bechtel. In the event that Company suspends all of the Services under this Agreement and such suspension (i) continues for an individual period exceeding ninety (90) consecutive days, or (ii) in the event that one or more suspension periods continue for more than one hundred eighty (180) days in the cumulative aggregate, and *provided that* such suspension is not due to the fault or negligence of Bechtel or any of its Subcontractors or an event of Force Majeure, then Bechtel shall have the right to terminate this Agreement by providing fourteen (14) days' written notice to Company. In the event of such termination, Bechtel shall have the rights (and Company shall make the payments) provided for in Section 20.1.

21.2 If Company fails to pay any undisputed amount due and owing to Bechtel and such failure continues for more than thirty (30) days after the due date for such payment, then Bechtel may suspend performance of its Services until Contractor receives such undisputed amounts. Prior to any such suspension, Bechtel shall provide Company with at least fourteen (14) days' prior written notice of its intent to suspend performance of its Services.

## ARTICLE 22 NOTICES

Unless otherwise specifically provided, all notices and other communications provided for in this Agreement shall be in writing and shall be effective upon receipt. Such notice and communications shall be given either: (i) by hand delivery to an authorized representative of the Party to whom directed, or (ii) by United States mail, postage prepaid, or (iii) by courier service guaranteeing delivery within two (2) days or less, charges prepared, or (iv) by facsimile, to the address of the Party as designated below:

To Company:

**Sabine Pass LNG, L.P.**

717 Texas Avenue, Suite 3100

Houston, Texas 77002

Facsimile Number: 713-659-5459

Attn: Ed Lehotsky

To Bechtel:

**Bechtel Corporation**

3000 Post Oak Boulevard

Houston, Texas 77056

Facsimile Number: 713-235-1610

Attn: Jose Montalvo



Any notice, other than Force Majeure notice, delivered after 5:00 p.m. or on a weekend or Bechtel Holiday, shall not be deemed delivered until the next Working Day. Either Party may at any time change its address, facsimile number or attention recipient upon written notice to the other Party.

ARTICLE 23 REPRESENTATIVE OF THE PARTIES

23.1 At all times during the construction of the Phase 2 Project Bechtel and Company will each have a representative who will be authorized and empowered to act for and on behalf of each on matters within the terms of this Agreement. Each Party will notify the other in writing of its representative and this appointment will remain in full force and effect until written notice of substitution is delivered to the other Party.

ARTICLE 24 OWNERSHIP OF THE PHASE 2 PROJECT

Company represents that it is the owner, subject to any rights of Lender, of the Phase 2 Project and binds itself fully and completely to the releases and limitations of liability set forth in this Agreement.

ARTICLE 25 ASSIGNMENT AND SUBCONTRACTS

25.1 Assignment. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except that Company may assign this Agreement to any of its Affiliates by providing notice to Bechtel. Furthermore, Company may, for the purpose of providing collateral, assign, pledge and/or grant a security interest in this Agreement to any Lender without Bechtel's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Bechtel or Company pursuant to this Section 25.1 shall not relieve Bechtel or Company (as applicable) of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 25.1 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for default.

25.2 Bechtel Subcontractors. Owner acknowledges and agrees that Bechtel intends to have portions of the Services accomplished by Bechtel Subcontractors pursuant to written Bechtel Subcontracts. All Bechtel Subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective professions performing identical or substantially similar services. No Bechtel Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Agreement. Bechtel shall be fully responsible to Company for the acts and omissions of Bechtel Subcontractors and of Persons directly or indirectly employed by any of them, as it is for the acts or omissions of Persons directly employed by Bechtel. The services of any Bechtel Subcontractor shall be subject to inspection by Company to the same extent as the Services of Bechtel. All Bechtel Subcontractors and their personnel are to be instructed in the terms and requirements of Company-approved safety and environmental protection regulations and shall be expected to comply with such regulations. In the event that such personnel are not adhering to such regulations, then they shall be removed by Bechtel. Nothing contained herein shall (i) create

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any contractual relationship between any Bechtel Subcontractor and Company, or (ii) obligate Company to pay or see to the payment of any Bechtel Subcontractor.

25.3 Approval of Bechtel Subcontractors. Bechtel shall (i) notify Company of all proposed Bechtel Subcontractors as soon as possible during the selection process and furnish to Company all information reasonably requested by Company with respect to Bechtel's selection criteria (including copies of bid packages furnished to prospective Bechtel Subcontractors, responses to such bid packages, and the qualifications of the proposed Bechtel Subcontractors), and (ii) notify Company no less than thirty (30) days prior to the execution of a Bechtel Subcontract with any Bechtel Subcontractor. Owner shall have the discretion to reject any proposed Bechtel Subcontractor. Bechtel shall not enter into any Bechtel Subcontracts with a proposed Bechtel Subcontractor rejected by Company in accordance with the preceding sentence. Company shall undertake in good faith to review the information provided by Bechtel pursuant to this Section 25.3 expeditiously and shall notify Bechtel of its decision to accept or reject a proposed Bechtel Subcontractor as soon as practicable after such decision is made.

25.4 Bechtel Subcontracts. Bechtel shall furnish Company with a fully executed copy of all Bechtel Subcontracts within ten (10) days after the award of each such Bechtel Subcontract. Unless Company consents otherwise in writing, each Bechtel Subcontract shall contain the following provisions:

25.4.1 the Bechtel Subcontract may, upon termination of this Agreement or all or any part of the Services, and Company's written notice to such Bechtel Subcontractor, be assigned to Company without the consent of the Bechtel Subcontractor; and

25.4.2 each Bechtel Subcontractor shall comply with and perform for the benefit of Company all requirements and obligations of Bechtel to Company under this Agreement, as such requirements and obligations are applicable to the performance of the work under the Bechtel Subcontract.

25.5 Bechtel Subcontract with Bechtel Affiliates. Bechtel may subcontract to, or cause to have performed portions of the Services by, its Affiliates with the prior written approval of Company. Bechtel guarantees such entities' compliance with the requirements of this Agreement, *provided that* the limitations on Bechtel's liability set forth in this Agreement constitute the aggregate limit of liability of Bechtel and its Affiliates to Company. For purposes of this Section 25.5, Company hereby approves Bechtel to subcontract with or cause to have performed by its Affiliates as follows: Bechtel Equipment Operations, Inc. ("BEO") to provide construction equipment (subject to Company's approval of rental rates); Becon Construction Company, Inc. to perform construction Services, and Global Supply Systems, Inc. to perform expediting and inspection Services.

#### ARTICLE 26 APPLICABLE LAW

26.1 This Agreement shall be interpreted under and governed by the law of the state of Texas (without giving effect to the principles thereof relating to conflicts of law), except that with respect to the laws relating to mechanics and materialmen's liens and with respect to Section 26.2 below,

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Louisiana law shall apply. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

26.2 In all cases where Bechtel's employees (defined to include the direct, borrowed, special, or statutory employees of Bechtel Subcontractors) are performing Services in or offshore the state of Louisiana or are otherwise covered by the Louisiana Workers' Compensation Act, La. R.S. 23:1021, et seq., Company and Bechtel agree that the Services performed by Bechtel, Bechtel Subcontractors, and Bechtel's and Bechtel Subcontractors' employees pursuant to this Agreement are an integral part of and are essential to the ability of Company to generate Company's goods, products, and services for the purpose of La. R.S. 23:1061(a)(1). Furthermore, Company and Bechtel agree that Company is the statutory employer of Bechtel's and Bechtel Subcontractors' employees for purposes of La. R.S. 23:1061(a)(3) for the Phase 2 Project, and that Company shall be entitled to the protections afforded a statutory employer under Louisiana law. Regardless of Company's status as the statutory or special employer (as defined in La. R.S. 23:1031(c)) of the employees of Bechtel or Bechtel Subcontractors, and regardless of any other relationship or alleged relationship between such employees and Company, Bechtel shall be and remain at all times primarily responsible for the payment of all workers' compensation and medical benefits to Bechtel's and Bechtel Subcontractors' employees, and neither Bechtel, Bechtel Subcontractors, nor their respective insurers or underwriters shall be entitled to seek contribution or indemnity for any such payments from Company or any other member of the Company Group. NOTWITHSTANDING THE FOREGOING, UNDER NO CIRCUMSTANCES SHALL THIS Section 26.2 BE INTERPRETED TO RELIEVE BECHTEL FROM ITS FULL RESPONSIBILITY AND LIABILITY TO COMPANY UNDER THIS AGREEMENT FOR THE EMPLOYEES OF BECHTEL OR ITS BECHTEL SUBCONTRACTORS (WHETHER OR NOT SUCH EMPLOYEES ARE A STATUTORY, SPECIAL OR BORROWED EMPLOYEE, OR OTHERWISE), INCLUDING BECHTEL'S OBLIGATIONS TO DEFEND, INDEMNIFY AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST INJURY OR DEATH TO SUCH EMPLOYEES OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF SUCH EMPLOYEES, AS PROVIDED IN SECTION 12.2.

#### ARTICLE 27 DISPUTE RESOLUTION

27.1 In the event that any claim, dispute or controversy arising out of or relating to this Agreement (including the breach, termination or invalidity thereof, and whether arising out of tort or contract) ("Dispute") cannot be resolved informally within thirty (30) Days after the Dispute arises, either Party may give written notice of the Dispute ("Dispute Notice") to the other Party requesting that a representative of Company's senior management and Bechtel's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such Dispute Notice, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 27.1 be construed to limit either Party's right to take any action under this Agreement. The Parties agree that if any Dispute is not resolved within ninety (90) days after receipt of the Dispute Notice given in this Section 27.1, then either Party may by notice to the other Party refer the Dispute to be decided by final and binding arbitration in accordance with Section 27.2.

27.2 Any arbitration held under this Agreement shall be held in Houston, Texas, unless otherwise agreed by the Parties, shall be administered by the Dallas, Texas office of the American Arbitration Association (“AAA”) and shall, except as otherwise modified by this Section 27.2, be governed by the AAA’s Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Construction Disputes) (the “AAA Rules”). The number of arbitrators required for the arbitration hearing shall be determined in accordance with the AAA Rules. The arbitrator(s) shall determine the rights and obligations of the Parties according to the substantive law of the state of Texas, excluding its conflict of law principles, as would a court for the state of Texas; *provided, however*, the law applicable to the validity of the arbitration clause, the conduct of the arbitration, including resort to a court for provisional remedies, the enforcement of any award and any other question of arbitration law or procedure shall be the Federal Arbitration Act, 9 U.S.C.A. § 2. Issues concerning the arbitrability of a matter in dispute shall be decided by a court with proper jurisdiction. The Parties shall be entitled to engage in reasonable discovery, including the right to production of relevant and material documents by the opposing Party and the right to take depositions reasonably limited in number, time and place; *provided that* in no event shall any Party be entitled to refuse to produce relevant and non-privileged documents or copies thereof requested by the other Party within the time limit set and to the extent required by order of the arbitrator(s). All disputes regarding discovery shall be promptly resolved by the arbitrator(s). This agreement to arbitrate is binding upon the Parties, Bechtel’s surety (if any) and the successors and permitted assigns of any of them. At either Party’s option, any other Person may be joined as an additional party to any arbitration conducted under this Section 27.2, *provided that* the party to be joined is or may be liable to either Party in connection with all or any part of any dispute between the Parties. Notwithstanding the foregoing, any arbitration conducted under this Article shall not be joined or consolidated with arbitration to resolve any issues or disputes involving the Phase 1 Facility, the Phase 1 EPC Agreement or the work performed or to be performed under the Phase 1 EPC Agreement, unless otherwise mutually agreed between the Parties.

27.3 At any time when the total amounts invoiced by Bechtel pursuant to Section 8.1 of this Agreement which are disputed and unpaid by Company exceed Ten Million U.S. Dollars (U.S.\$10,000,000) in the cumulative aggregate, Company shall escrow any such disputed and unpaid amounts in excess of the aforesaid amount (“Escrowed Amounts”); *provided, however*, the Parties acknowledge and agree that such Escrowed Amounts shall not include any claims by Bechtel for compensation for (i) additional Fixed Fee in excess of the original Fixed Fee (as adjusted by Change Order) or (ii) any other amounts beyond that in the original estimate of the cost of Services as set forth in the estimates described in Section 7.1. For the purposes of determining the date when Company must deposit the Escrowed Amounts with the Escrow Agent, amounts are “unpaid” on the date that Company is required to make payment of an Invoice under Section 8.1 of this Agreement. The Escrowed Amounts will be deposited with the Escrow Agent pursuant to the Escrow Agreement (which provides, among other things, that the Escrowed Amounts shall be held in an interest bearing account and disbursed upon the instructions of both Parties or pursuant to an arbitration award). Prior to issuance of the NTP, (i) the Escrow Agent shall be selected by mutual agreement of the Parties and (ii) the Escrow Agreement shall be in final form and executed by the Escrow Agent and each Party. The Parties shall each pay fifty percent (50%) of the cost of the Escrow Agreement including without limitation the fees and expenses of the Escrow Agent, and Bechtel’s portion of such amount shall not be a Recoverable Cost.

27.4 The arbitration award shall be final and binding, in writing, signed by all arbitrators, and shall state the reasons upon which the award thereof is based. The Parties agree that judgment on the arbitration award may be entered by any court having jurisdiction thereof.

27.5 Notwithstanding any Dispute, it shall be the responsibility of each Party to continue to perform its obligations under this Agreement pending resolution of Disputes. Company shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Bechtel undisputed amounts in accordance with this Agreement and, except as provided in this Agreement, continue to perform all of its obligations under this Agreement; *provided, however*, in no event shall the occurrence of any negotiation or arbitration prevent or affect Company from exercising its rights under this Agreement.

#### ARTICLE 28    SUCCESSORS AND ASSIGNS

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

#### ARTICLE 29    SEVERABILITY AND SURVIVAL

29.1 In the event that any of the provisions, or portions, or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, Company and Bechtel shall negotiate an equitable adjustment in the provisions of this Agreement with a view toward effecting the purpose of this Agreement and the validity and enforceability of the remaining provisions, or portions, or applications thereof, shall not be affected thereby.

29.2 The rights and obligations set forth in Articles 9, 10, 12, 13, 14, 15, 16, 17, 18, 26 and 27 shall survive the termination of this Agreement or the completion of the Services hereunder in accordance with their terms.

#### ARTICLE 30    MISCELLANEOUS

##### 30.1    No Interference with the Phase 1 Facility.

30.1.1 Notwithstanding anything to the contrary in this Agreement, it is the Parties' intent that the performance of the Services and Bechtel's other obligations under this Agreement shall not, in any way, negatively impact the cost or schedule for development of the Phase 1 Facility or otherwise interfere with the operation of the Phase 1 Facility, and Bechtel shall ensure that the performance of the Services does not negatively impact the cost or schedule for development of the Phase 1 Facility or with the operation of the Phase 1 Facility. If Bechtel believes that performance of some portion of the Services might adversely impact the cost or schedule of the Phase 1 Facility, or the operation of the Phase 1 Facility, Bechtel shall notify Company in writing of such potential interference, and Bechtel shall not proceed with the performance of such Services unless and only to the extent specifically instructed in writing by Company to perform any such potentially interfering Services.

30.1.2 With respect to the Phase 1 Project, Bechtel shall coordinate access of itself and all Bechtel Subcontractors, Company Contractors (including Company Vendors), and their

respective subcontractors, to and from the Phase 2 Site, and within the Phase 2 Site, to ensure that the performance of the Services and the work of Company Contractors and subcontractors does not interfere with the construction or operation of the Phase 1 Facility. As part of this coordination, Bechtel shall schedule and coordinate access to any areas that are shared by the Phase 1 Project and the Phase 2 Project, the construction dock, plant, roads, and other delivery routes for all Bechtel Subcontractors, Company Contractors (including Company Vendors) and their respective subcontractors, requiring such access such that such entities have reasonable access without interfering with the construction or operation of the Phase 1 Facility. If Bechtel believes that access to the Phase 2 Site or use of the construction dock, plant, roads, or other delivery routes might adversely impact the cost or schedule of the Phase 1 Facility, or the operation of the Phase 1 Facility, Bechtel shall notify Company in writing of such potential interference, and Bechtel shall not permit such interference to occur, unless and only to the extent specifically instructed in writing by Company. Upon "Substantial Completion" of the Phase 1 Facility, as defined under the Phase 1 EPC Agreement, Company shall coordinate access to and from the Phase 2 Site, with assistance from Bechtel as request by Company.

30.1.3 To the extent any insurance policy provided by Bechtel under this Agreement also applies to the Phase 1 Facility and an occurrence with respect to that policy affects both the Phase 1 Facility and the Phase 2 Facility, the Phase 1 Facility shall have priority and any proceeds from such insurance policy shall be used first to satisfy any claim(s) with respect to the Phase 1 Facility before being applied or used to satisfy any claims with respect to the Phase 2 Facility.

30.1.4 Notwithstanding anything herein to the contrary, Bechtel shall not be excused from or relieved of any obligations or responsibilities under the Phase 1 EPC Agreement by virtue or because of any obligation of Bechtel hereunder or any act, instruction, or direction of Company or anyone acting for or on behalf of Company under this Agreement.

30.2 Independent Engineer. Bechtel shall cooperate with the Independent Engineer in the conduct of his or her duties in relation to the Phase 2 Project and the Services. Company shall give Bechtel a copy of the anticipated activities of the Independent Engineer within thirty (30) days of the Effective Date. No review, approval or disapproval by such Independent Engineer shall serve to reduce or limit the liability of Bechtel to Company under this Agreement.

30.3 Lender and Opinion of Counsel.

30.3.1 Within fourteen (14) days after the Effective Date, Bechtel shall enter into a mutually acceptable form of acknowledgement and consent with the Lender. Such acknowledgement and consent shall be substantially in the form of Attachment L. Bechtel shall cooperate in considering appropriate and reasonable amendments to that form of direct agreement as such amendments may be proposed by Lender or its counsel.

30.3.2 Within fourteen (14) days after the Effective Date, Bechtel shall deliver to Company an opinion of counsel with respect to the due authorization, execution and delivery of this Agreement and its validity and enforceability and such other matters as Lender may reasonably request.

30.4 Language. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language.

30.5 Foreign Corrupt Practices Act. With respect to the performance of the Services, Bechtel shall, and shall cause each member of the Bechtel Group to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2) and not to take any action that could result in Company or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such act. Company shall, and shall cause each member of the Company Group to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2) and not to take any action that could result in Bechtel or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such act.

30.6 Restrictions on Public Announcements. Neither Bechtel nor its Subcontractors shall take any photographs of any part of the Phase 2 Facility, issue a press release, advertisement, publicity material, financial document or similar matter or participate in a media interview that mentions or refers to the Services or any part of the Phase 2 Facility without the prior written consent of Company; *provided that* Bechtel shall not be required to obtain Company's prior written consent of Bechtel's issuance of a press release to correct any errors made by Company concerning Bechtel in a prior press release issued by Company if Bechtel first gives Company five (5) days' prior written notice of Bechtel's intent to issue such corrective press release and an opportunity of Company to correct such error within such five (5) day period. Company agrees to cooperate with Bechtel and provide to Bechtel for review and comment a copy of any press release that mentions or refers to Bechtel prior to the issuance of such press release; *provided that* Company shall not be required to obtain Bechtel's prior consent prior to the issuance of such press release. Bechtel acknowledges and agrees that Company shall be required, from time to time, to make disclosures and press releases and applicable filings with the Securities and Exchange Commission in accordance with applicable securities laws, that Company believes in good faith are required by Applicable Law or the rules of any stock exchange. If any such disclosure, press release or filing includes any reference to Bechtel, then Company shall provide as much notice as is practicable to Bechtel to provide it with an opportunity to comment; *provided, however*, the final determination shall remain with Company. Bechtel acknowledges that Company shall be required from time to time to make filings in compliance with applicable securities laws, including a copy of this Agreement.

30.7 Potential Lenders, Potential Equity Investors and Equity Participants.

30.7.1 Company shall provide to Bechtel (i) the identity of Potential Lenders that have signed confidentiality agreements with Company and (ii) a copy of excerpts from the preliminary information memorandum or preliminary offering circular distributed to such Potential Lenders. As used herein, "Potential Lender" shall mean any commercial bank, insurance company, investment or mutual fund or other entity that is an "accredited investor" (as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended) and which extends credit, buys loans and is in the business of lending as one of its businesses.

30.7.2 Prior to disclosure of any Work Product by Company to any potential equity investor in Company in connection with the Phase 2 Project, Company shall (i) obtain Bechtel's written consent (such consent not to be unreasonably withheld) to the description of the Work

Product to be disclosed, and (ii) obtain a waiver from such potential equity investor agreeing that it is not relying upon such Work Product in making any investment decision in connection with the Phase 2 Project and waiving and releasing any claim it may have against Bechtel or Bechtel's Affiliates on account of any such reliance or purported reliance. Company acknowledges and agrees that each potential equity investor shall be an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended.

30.7.3 Company's successors, assigns and any future recipient of any equity ownership in Company shall be bound by the releases, limitations on liability and other protections of Bechtel set forth in this Agreement, and Company shall obtain the express written agreement of such equity participants to be bound by such releases, limitations of liability and other protections of Bechtel.

30.8 Priority. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. In the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. This Agreement is composed of the following documents, which are listed in priority:

30.8.1 Change Orders which expressly modify the terms of this Agreement or written amendments to this Agreement;

30.8.2 the Articles of this Agreement; and

30.8.3 Attachments and Schedules to this Agreement.

30.9 Amendments. No change, amendment or modification of the terms of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties.

#### ARTICLE 31 ENTIRE AGREEMENT

Any Services provided for herein which were performed or caused to be performed by Bechtel prior to issuance of Notice to Proceed shall be deemed to have been performed under this Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and supersedes any previous agreements or understandings. The printed terms and conditions contained in any purchase orders, work orders, or other documents issued by Company to Bechtel prior to issuance of the Notice to Proceed with respect to the Services shall be of no force and effect and shall be superseded by the terms and conditions contained in this Agreement.



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IN WITNESS WHEREOF, the Parties have entered into this Agreement on the Effective Date.

SABINE PASS LNG, L.P.

By: /s/ Stanley C. Horton  
Name: Stanley C. Horton  
Title: Chief Executive Officer

BECHTEL CORPORATION

By: /s/ JT Jackson  
Name: JT Jackson  
Title: Sr. Vice Pres.

**ATTACHMENT A****SCOPE OF WORK AND DESIGN BASIS****Schedule A-1****SCOPE OF WORK****TABLE OF CONTENTS**

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## **1. SCOPE REQUIREMENTS**

### **1.1 General Introduction**

This Scope of Services is intended to provide an overall description of Bechtel's responsibilities for the design, engineering, procurement, management, construction management, installation, and pre-commissioning of the Phase 2 Facility.

The Phase 2 Project will involve expanding the LNG receiving, storage and sendout Facility (the "Facility" consists of the Phase 1 Facility and the Phase 2 Facility combined) in Cameron Parish, Louisiana. The expansion will be designed to import, store, and vaporize on average approximately an additional 1,400 MMSCFD of LNG, for supply to Natural Gas markets.

All the work will be performed on a reimbursable basis as described in the main contract.

### **1.2 Summary of Bechtel Scope**

Bechtel's responsibilities include:

- a. Detailed engineering design of the Phase 2 Facility
- b. Development of Bechtel deliverables as described herein
- c. Equipment Procurement Services to support Company's Purchasing
- d. Mobilization and Site establishment
- e. Management, reporting and supervision of the Phase 2 Project work and Services
- f. Construction Management and Installation of the Phase 2 Facility
- g. Sub-contractor Management
- h. Care, maintenance and preservation of Equipment.
- i. Ready For Handover
- j. Pre-commissioning
- k. Final Acceptance
- l. Administer Company Contracts

## **2. DESCRIPTION OF THE FACILITY**

### **2.1 LNG Storage Facilities**

The LNG will be stored in two single containment insulated LNG storage tanks (the "Tanks") (also designated as Tank S-104, and Tank S-105), of 160,000 cubic meters net storage capacity each. Future LNG Tank S-106 is excluded from this scope.

The Tanks will be designed and constructed so that the primary container and an earthen impoundment dike will be capable of independently containing the LNG.

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The Company will let a contract directly to a specialty tank contractor (the "Tank Contractor") for all necessary engineering design, procurement of materials and equipment, fabrication, delivery, erection, installation, testing and pre-commissioning of the two above ground, single containment tanks. Design and purchased components will include but not necessarily be limited to: piling and tank foundations, single containment tanks, associated equipment and structures, piping, tank insulation, instrumentation and electrical systems. The Tank Contractor's work, unless specified otherwise, shall extend to its Battery Limits defined as 20 feet beyond the outside perimeter of outer tank. The sole exceptions shall be that Bechtel shall procure and provide the Tank Contractor with three in-tank pumps for each Tank, dry chemical system, LP vent stacks, and also control valves, for installation by Tank Contractor.

Each Tank will be a double walled design and will consist of a 9% nickel steel inner container; a carbon steel outer tank and a carbon steel domed roof with an insulated aluminum deck over the inner container suspended from the domed roof.

The annular space between the inner and outer tanks will be approximately 36 inches wide and will be filled with Perlite. The suspended deck will be insulated with glass wool blankets. The Tank bottoms will be insulated with cellular glass load bearing block insulation designed to support the Tank and product weight.

The inner container will be designed and constructed in accordance with the requirements of API Standard 620 Appendix Q. The Tank system will meet the requirements of NFPA 59A and 49 CFR Part 193. The inner tank will be "open top", consisting of a shell and bottom. The self-supporting roof of the outer tank will contain gas and gas pressure produced by the stored product. The Tanks will be designed taking into consideration the seismic loads as well as the wind loads.

The Tank insulation system will be designed to limit the Tank Boil-Off rate to a nominal rate of no greater than 0.05% by volume per day of the Tank contents at an ambient temperature of 90°F, with the Tank full and in a steady-state condition. The nominal Tank Boil-Off rate will be documented through heat transfer calculations.

Tank instrumentation will consist of resistance temperature detectors (RTDs) for sensing the Cool Down and foundation temperatures, tank gauging system that will provide level, temperature, density and a data acquisition system. The Tanks will be protected with pressure and vacuum relief systems. For servicing of relief valves a monorail will be provided.

Roof platforms will be provided to provide sufficient working space around the pump wells and piping. A Jib Crane will be provided for the maintenance of pumps and control valves etc.

Four intank pump columns will be installed in each Tank for three operating pumps and the fourth spare for a future intank pump. An additional spare pump (shared by the 2 new tanks) will be stored in the warehouse.

Stairways and an emergency escape ladder will be provided to access the roof platforms. A stairway will be provided to the inner tank bottom.

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Spill protection of the Tank roof will extend over the edge of the roof dome with a chute to grade.

Exposed portions of carbon steel surfaces of the tank shell and roof will be blasted and painted. Stainless steel, aluminum and galvanized surfaces will not be painted.

A general Tank lighting system will be provided. Emergency lighting and aircraft warning lights will also be provided. Each Tank will be provided with a tank-grounding grid.

In addition to other testing during installation of the Tanks, partial hydrostatic testing of the inner container will be performed in accordance with API 620 Appendix Q8. Hydrotest water will be discharged in accordance with Applicable Law upon completion of the tests. A pneumatic test of the outer container will be performed in accordance with API 620 Appendix Q.8.

A settlement monitoring system will be provided to measure and record inner and outer container movements during construction and hydrotest. This construction monitoring will form the basis for continued periodic monitoring once the Phase 2 Facility is in operation.

The Tanks will be equipped with continuous density monitoring instrumentation to detect stratification. Facilities will be provided to circulate the stored product so that if stratification begins to develop, the Tank contents can be thoroughly mixed within each Tank and between Tanks.

## **2.2 Boil-Off Gas and Vapor Removal System**

Small amounts of Natural Gas vapors will be produced within the system during the handling of LNG from ship unloading through storage and other transfers. Boil-Off of LNG in the Tanks will be caused by exposure of cryogenic equipment to ambient temperature and other factors such as barometric pressure changes, pump heat input, and ship flash vapor.

Excess vapor will be removed from the Tanks in order to control pressure in the Tanks. This vapor will be conveyed to and compressed in the existing Boil-Off Gas compressors ("BOG Compressors"). Fuel gas for the submerged combustion vaporizers ("Submerged Combustion Vaporizers" or "SCVs") will be taken from the compressed gas and the remainder of the compressed gas will be mixed with part of the LNG from the in-Tank pumps and re-condensed in the Boil-Off gas condenser system ("BOG Condenser System").

The existing BOG Compressors are cryogenic reciprocating machines and have the capacity to handle all Boil-Off vapors generated during all operating modes, including the Expansion phase. The BOG Re-Condenser drum will separate the condensed gas from any non-condensed vapors.

During ship unloading, a portion of the vapors from the Tanks will flow to the existing vapor return blowers. The blowers will boost the pressure to overcome the pressure drop in the piping to the ship. In order to maintain ship tank pressure, vapors must be returned to the ship during unloading to make up for the volume of liquid being pumped from the ship.

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### 2.3 LNG Vaporization and Sendout Facilities

Three vertical submerged pumps shall be provided in each Tank to transfer LNG to the sendout pumps. The pumps will normally operate submerged with about 1.5 psig tank pressure plus static head on the pump suction. Discharge pressure shall be designed to be approximately 100 psig.

The LNG sendout pumps will be multi-stage and seal-less with the motor submerged in LNG. The LNG sendout pumps boost the pressure of the LNG sufficient for the vaporized Natural Gas to enter the Export Pipelines after vaporization at maximum 1440 psig. Normal operation at design capacity will require eight pumps, one each for each SCV.

Eight (8) Submerged Combustion Vaporizers (SCVs) shall be provided to vaporize the LNG. Heat for vaporization will be provided by burning a portion of the Boil-Off gas or vaporized gas. Blowers will provide combustion air at a pressure sufficient to force the combustion products up through a stainless steel water basin where the combustion products will heat the water. The water basin contains a bank of submerged tubes through which the LNG will pass. As the LNG passes through the tubes it will be heated by the warm bath and vaporized. Each vaporizer shall have its own fired heater, basin and tube bundle.

The SCVs shall be designed to provide a 40°F gas outlet temperature at design flow.

Each SCV will be self supporting and shall contain a separate coil to heat the fuel gas required for its combustion.

Each SCV will have a burner management system that controls the firing of each SCV. The operation, start-up, and shutdown sequences, and process control of the SCVs will be done through the Facility Distributed Control System.

The water in the SCV basins becomes acidic as it absorbs the carbon dioxide from the combustion products. The water is neutralized in-situ using caustic before overflowing to the LNG Trench linked to the Phase 1 Facility LNG Impoundment Sump, and will then be pumped to the Firewater Pond.

In addition to the SCVs, one Pilot Test Train of Ambient Air Vaporizers (AAVs) will be installed. The AAVs will be a collection of cells which utilize convection with the atmosphere as the heat transfer mechanism. The AAVs Pilot Test Train will comprise of 11 cells. It will be installed adjacent to one of the SCVs and will be piped to share the sendout pump and sendout gas outlet from that SCV.

Each AAV cell is comprised of a number of individual multi-finned heat transfer tubes connected in parallel in a bundle about 11 feet square by 40 feet tall. LNG is evenly distributed throughout the tube bundle and enters the AAV cell at the bottom. The vaporized natural gas exits at the top of the AAV cell where it is collected in a header with other AAV cells and is piped back to the sendout system.

During operation, frost will gradually build up on the fins and tubes of the AAV cells, reducing the temperature of the vaporized gas and limiting the effectiveness of the AAV cell. Periodically the cells must be shut down to defrost the fins. The amount of defrost water produced will be a function of the vaporization throughput, relative humidity, air temperature, and other environmental factors.

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The defrost water will be drained from under the AAV train, collected in the LNG Trench system linked to the Phase 1 Facility LNG Impoundment Sump, and pumped to the existing Firewater Pond.

The AAVs Pilot Test Train will have extensive instrumentation, control valves, and monitoring devices to allow the operators to fully assess the operation of the AAV Train, including how it affects the surrounding environment. However, this instrumentation has not yet been fully defined, and thus is not reflected in the current cost estimate. The information gathered during the operation of the Pilot Train will be used to optimize the configuration, layout, control, and other aspects of the design of AAV Trains planned for future stages of the Expansion.

The Facility Safety Instrumented System shall be capable of initiating a shut down of the vaporizers. The detection of low temperatures downstream of each vaporizer will shut down the individual SCV to protect downstream piping and Equipment from being subjected to lower than design temperatures. Other shutdowns of individual vaporizer trains or groups of vaporizer trains will be determined during detailed design.

Pipeline gas Btu control is not included in the scope of the Phase 2 Project.

Two low pressure stacks located at the top of the Tanks, shall be provided to vent process plant vapor releases to a safe location.

One (1) 36-inch stainless/Carbon steel Sendout Pipeline shall be provided. The Sendout Pipeline will tie in via a flanged connection near the Phase 1 Facility meter. (Details are still in developmental stage).

In addition to the export to the Export Pipeline, fuel gas shall be consumed in the Phase 2 Facility for vaporization of the LNG in the SCVs and for power generation in the GTG's.

The normal source of fuel gas for vaporizers will be from the discharge of the BOG Compressors. Alternate supplies of fuel will be from downstream of the vaporizers. The fuel is heated in separate coils in the water bath of the SCVs. Each vaporizer shall have a coil designed to heat the amount of fuel required for that vaporizer.

For power generation, fuel gas from the Phase 1 Facility Sendout Pipelines shall be heated and reduced in pressure from the Sendout Pipeline pressure to meet power generating equipment requirements. All power generation fuel gas heating and conditioning facilities are part of Phase 1 Facility scope that was pre-invested to handle Phase 2 Facility requirements.

For power generation, one (1) simple cycle 25 MW gas turbine generator shall be provided.

Permanent electrical power from the local electrical utility has been assumed to be available to supply all essential loads during start-up, upsets, and shutdowns.



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## 2.4 Buildings and Structures

All buildings and structures will be designed to maintain structural integrity in a 150 mph wind speed, exposure “C” per ASCE 7. Buildings and shelters as listed below will be provided:

- Combined Electrical MCC and Instrument Enclosure Building.
- Remote electrical MCC/Transformer Building.
- Shelters with Kynar coated metal roofing and partial siding will be provided for firewater booster pumps, and Plant/Instrument Air Compressor.

## 2.5 Control Systems

Control and monitoring of the Facility will be performed by an integrated Distributed Control System (DCS) using operator interface stations located in the existing control room.

An independent Safety Instrumented System (SIS) will be installed to allow the safe, sequential shutdown and isolation of rotating Equipment, fired Equipment and Tanks.

Overall Facility control will consist of the following major functions:

1. LNG ship unloading (included in Phase 1 Facility with interface with Phase 2 Facility)
2. Tank pressure control
3. LNG vaporization and sendout
4. Plant SIS

A DCS will control the overall Facility operations and interface with the following programmable logic controllers (“PLCs”):

1. Jetty LNG ship unloading PLCs (included in Phase 1 Facility with Phase 2 Facility interface)
2. Tank gauging data acquisition systems
3. Natural Gas metering (included in Phase 1 with Phase 2 interface)
4. BOG Compressors (included in Phase 1 with Phase 2 interface)
5. Vapor return blowers (included in Phase 1 with Phase 2 interface)
6. Nitrogen package
7. Instrument air compressor and dryers
8. Liquid caustic system

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9. Gas turbine generators (included in phase 1 with Phase 2 interface)

An independent SIS will be installed to allow the safe, sequential shutdown and isolation of rotating Equipment, fired Equipment, jetty areas, and LNG Storage Tanks. Emergency shutdowns will be provided for the entire project, for each of the ship unloading systems, and for specific Equipment. Design, construction and installation of SIS will be compliant with ANSI/ISA-S84.01.

The Phase 2 Project will have a dedicated monitoring system for fire, combustible gas, and low temperature spill monitoring. Detection of fire and combustible gas will produce alarms that will require manual intervention. Low temperature spill detection in the impoundment sumps will automatically stop the pumps in the affected sump.

A closed circuit television (CCTV) system will be expanded to allow operators and security staff to remotely view selected areas of the Facility from the control building, jetty areas and gate house.

Communication between the various remote I/O cabinets and the control rooms will be achieved via a redundant fiber optic network. This will provide two-way, high-speed communication for control and display. All Vendor local panel connections will be via a simplex fiber optic connection.

Facility control will only be from the main control room in the control building.

## **2.6 Electrical**

The Facility will generate all the power required for the Facility for operation and maintenance. A permanent tie to the local power grid is assumed for startup and standby loads. Generated power from the gas turbine generator is designed to be at 13.8 kV. Transformers will be designed to step down the voltage from 13.8 kV to 4.16 kV, 480 V, and 240/120 V distribution levels.

The total operating load of the Facility, including the Phase 1 Facility and Phase 2 Facility will be approximately 75 MVA. Four (4) combustion turbine generators will be available to furnish power to the Phase 1 Facility and Phase 2 Facility. Most of this load will consist of motors, with the largest motors rated at approximately 2600 HP each.

Generator switchgear will be installed in the existing Phase 1 Facility powerhouse building.

A new substation consisting of distribution transformers, substation switchgear and motor control centers will be installed near the Phase 1 electrical substation building.

Electrical area classification will be according to the applicable sections of NFPA 497 and API RP 500. The electrical materials and installation will be in accordance with the requirements of the NEC. 15 kV, 5 kV and 480 Volt switchgears will be located in the Phase 2 Powerhouse buildings.

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The electric motor drives in the Facility, except for stand by DC motors in the power generation area will be rated for 4.16 kV, 460 V or 120 Volt depending on size. The 4.16 kV and 480 Volt motor controllers/starters will be located in indoor motor control centers that are located inside the Powerhouse building.

High-pressure sodium type lighting will be provided in process areas, along roadways, Tank stairways, platforms, and building exteriors.

The grounding system design will be based on the ground fault calculations. Grounding system will consists of a buried copper wire grid and 10-foot ground rods. Ground wells will be installed at selected locations for periodic testing of the system.

Several uninterruptible power supply (“UPS”) systems will be provided for both the Phase 1 Facility and Phase 2 Facility and are located in the main control building, the Phase 2 Facility MCC building and the Remote MCC/Transformer Building. The UPS system will consist of an inverter, rectifier, static bypass switch, manual maintenance bypass switch, 60 minute batteries and distribution panel with circuit breakers.

The existing DC UPS will supply power to the emergency lighting in enclosures (24V DC) on the gas turbine generator.

## **2.7 Fire Protection**

Fire protection for the Facility will involve several independent systems, based on water, CO<sub>2</sub>, nitrogen, and chemical agents. A firewater system will be provided to cover the Phase 2 Facility. Carbon dioxide fire protection system will be provided for the gas turbine generator enclosures. These systems will incorporate CO<sub>2</sub> bottle racks, valving and tubing. Portable dry chemical fire extinguishers will be provided throughout the Facility and in all the buildings.

The main components of the firewater system will be tied into the existing seven (7) million gallon firewater pond. For supply of water to the monitors located on top of the Phase 2 LNG Tanks, Phase 1 booster pumps will be used. The existing firewater pond was designed to have a capacity well exceeding 2-hour duration back to back events.

Nitrogen snuffing for small fires and Dry Chemical for large fires will be provided at the tailpipe of each Tank pressure relief valve.

Fireproofing, where required, will be used where structures or Equipment cannot be protected by other means.

The Facility will include manual pull boxes, audible sirens and visual lights at strategic locations on the Site. These sirens will have a distinctive mode, for easy recognition between alarms and emergency events.

## **2.8 Hazard Detection**

The Project will have dedicated monitoring systems for fire, combustible gas, and low temperature LNG spillage detection, in accordance with 49 CFR Part 193 and NFPA 59A.

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Flame detectors, smoke detectors, gas detectors, and other sensors will be strategically located throughout the Facility. Audible and visual alarms will be provided throughout the Facility area. The monitoring system will be self-contained as required by NFPA 59A.

All area monitors will be hardwired from the field device to a control room panel. Ultraviolet/infrared fire detectors and gas detectors will be equipped with self-diagnostic circuitry to assure proper device operation.

An independent SIS will be installed to allow the safe, sequential shutdown of the facility. The SIS will be separate from the DCS, but will feed status information and data to the DCS for monitoring and recording.

A CCTV system will be installed to provide the operators and security staff with panoramic and variable zoom views of the onshore and marine areas.

Instrumentation will be rated to meet the hazardous area classifications.

Hazard detection for the Facility shall be designed based on the following strategies:

- Direct visual monitoring;
- Remote visual monitoring through closed circuit television;
- Centralized alarm system; and
- Emergency shut down system.

In addition to visual monitoring, following detectors shall be furnished:

- Gas detectors
- Low temperature detectors
- UV/IR flame detectors
- Smoke detectors
- High temperature detectors

A security monitoring system will be used to monitor the perimeter security fence line and Facility entry gates included in Phase 1 Facility scope with interfacing for the Phase 2 Facility. Visual monitoring will be provided for viewing of the following areas:

- Main gate;
- Process area;
- Tanks;

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- East and west jetty operations; and
  - Ship manifold.

Two pull stations shall be provided on each Tank, one on the Tank stairway and one on the roof platform for activation of audible and visual alarms.

## **2.9 Soil Improvement and Earthen Dike Spill Containment for LNG Tanks**

Soils will be improved for LNG Tanks S-104 and S-105 (no soil improvement is provided for future LNG Tank S-106), the vaporizers process area, along piperack alignments, and in other areas as required to achieve soil strength sufficient for constructing the impoundment dikes, to support foundations for structures that are not supported on piles, and to support other construction activities.

The Company will let a contract directly to a specialty soil improvement contractor (the “Soil Contractor”) for all plant, labor, materials, tools, supplies, equipment, transportation, supervision, technical, professional and other services. The Soil Contractor shall perform all operations necessary to satisfactorily engineer, procure, and construct soil improvement works including but not necessarily limited to excavation, stabilization of dredge fill with fly ash/bed ash or other suitable reagent, wick drains installation, and earthen dike construction.

## **2.10 Site Development and Civil Work**

Selected areas within the Phase 2 Site will be backfilled, leveled and graded for material laydown and infrastructure to support the construction of the Phase 2 Facility. No site development is provided for later Stages of Phase 2, including the future buildout of AAVs process areas.

The Facility shall be designed to provide positive drainage of rainfall runoff.

LNG Spill Trenching will be provided to convey spills to the LNG Impoundment basin installed in the Phase 1 Project.

Storm water from inside the tank area will be pumped to a storm water drainage ditch leading to the Sabine River.

A spill prevention control and countermeasures plan for the construction activities will be developed and implemented in accordance with 40 CFR Parts 122 through 124.

Buildings, process equipment, and pipe rack foundations will be pile supported foundations.

The Facility roads and paving will consist of gravel or asphalt surfacing.

## **2.11 Settlement of Structures**

LNG Tanks and all other heavy structures will be subject to short term and long term settlement and differential settlement due to subsurface soil conditions at the Site. These structures shall be

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designed and constructed in accordance with Applicable Codes and Standards and Good Engineering and Construction Practice (GECPP), and also in accordance with the following requirements:

All foundations shall be designed and constructed to take into consideration settlement and differential settlement based on the subsurface soil conditions as described in the Geotechnical Reports.

Differential settlements should be expected between pile-supported structures and adjacent non-piled facilities or fill/improved areas. In addition to any differential settlement which may take place prior to Ready for Handover, the engineering design and construction shall be such that a six (6) inch differential settlement between pile-supported structures and adjacent non-piled facilities or fill/improved areas, which may occur from Ready for Handover through the expected lifetime of the Phase 2 Facility, will not cause any defects with normal monitoring and maintenance provided by Company.

Differential settlement should be expected between each Tank and other adjacent pile-supported structures such as piperacks. In addition to any differential settlement which may take place prior to Ready for Handover, the engineering design and construction shall be such that a six (6) inch differential settlement between any Tank and adjacent pile supported structures, which may occur from Ready for Handover through the expected lifetime of the Phase 2 Facility, will not cause any Defects with normal monitoring and maintenance provided by the Company.

The design and construction of the LNG containment dikes shall be such that the Primary Consolidation Settlement (as defined in "*Foundation Analysis and Design, Third Edition, by Joseph E. Bowles, McGraw-Hill Book Company*") shall take place prior to Ready for Handover, with the exception of any gaps in the dikes which may be required for construction access by the Tank Contractor but which shall be completed or reinstated prior to Cool Down of each Tank. The LNG containment dikes shall be maintained by Soil Contractor through the Defect Correction Period and restored, as necessary, in order to ensure that: (i) Primary Consolidation Settlement of the completed dikes at the gaps described above is obtained; (ii) the Design Basis capacity is satisfied; and (iii) settlement of the dikes will not cause any Defects.

Plant roads, where applicable, shall be designed and constructed in accordance with the current edition of Louisiana State Department of Highways and Public Transportation "*Standard Specifications for Construction of Highways, Streets and Bridges.*"

### **3. MANAGEMENT AND SUPERVISION**

#### **3.1 Company Management Philosophy**

To effect the necessary control of the interfaces between Company and Bechtel, and to facilitate prompt and accurate communications between Company and Bechtel, Company Representative will utilize a team of Company's personnel or consultants, which will be resident in Bechtel's Houston home office during design and procurement phase, and at Site during construction through Provisional Acceptance of all Systems.

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### **3.2 Project Execution Plan**

Within sixty (60) Days after Notice to Proceed, Bechtel shall submit to Company for review Bechtel's project execution plan ("Project Execution Plan"), which shall address, summarize, and provide a schedule for development and finalization of the following plans, procedures, and other documents.

- a. Project Objectives
- b. Phase 1 Interface Procedure
- c. Project Management
- d. Project Engineering Plan
- e. Document Management Plan
- f. Project Controls Plan
- g. Project Procurement Plan
- h. Document control Plan
- i. Communications Plan
- j. Subcontractor List
- k. Project Subcontract Plan
- l. HSE Plan
- m. Interface Management Plan
- n. Project Quality Plan
- o. Project Construction Plan
- p. Project Pre-Commissioning Plan
- q. Labor relations plan
- r. Management of change plan

### **3.3 Company Office Accommodations**

All security, furnishings, electrical power and other temporary utilities, lighting, telephones, facsimile, and high speed internet access associated with the office accommodation below shall be provided by Bechtel on a reimbursable basis as indicated in the Agreement. This shall include the telecommunications line rentals, from Notice to Proceed (NTP) until thirty (30) Days

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after Provisional Acceptance of all Systems. Company will supply computers to Company personnel:

Bechtel shall provide office accommodation for:

- Up to a peak of twelve (12) Company personnel at Bechtel's Houston home office, including two reserved covered parking spaces, all for a 24-month period commencing with NTP.
- Up to total twenty-four (24) Company personnel at Site at the peak of the construction activities, including two reserved parking spaces for 30-months period.

#### **4. ENGINEERING**

##### **4.1 Design Basis**

Company shall be responsible for providing those items of information defined as "Rely Upon" in the Design Basis included in Schedule A-2 of this Attachment A. Company shall remain fully responsible for the accuracy, completeness and sufficiency of such information.

All other information constituting the Design Basis or otherwise required for performance of the Phase 2 Project work and Services shall be provided or developed by Bechtel, as required.

##### **4.2 Applicable Codes and Standards**

The Applicable Codes and Standards include: (i) 49 CFR Part 193, 33 CFR Part 105, 33 CFR Part 127, NFPA 59A; (ii) any codes and standards specifically mentioned in any provision of the Agreement or the Attachments as applicable to the Phase 2 Project work and Services; and (iii) those codes and standards of the following standards organizations and other generally accepted practices, methods, techniques and standards employed by the international LNG industry constituting GECP, as specifically identified through detailed engineering:

- AASHTO, American Association of State Highway and Transportation Officials
- ACI, American Concrete Institute
- AFBMA, Anti-Friction Bearing Manufacturers Association
- ADA, Americans with Disabilities Act, Accessibility Guidelines (ADAAG)
- AGA, American Gas Association
- AGMA, American Gear Manufacturers Association
- ASA, Acoustical Society of America
- ARI, Air Conditioning and Refrigeration Institute
- AIChE, American Institute of Chemical Engineers



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- AISC, American Institute of Steel Construction
  - ANSI, American National Standards Institute
  - API, American Petroleum Institute
  - ASME, American Society of Mechanical Engineers
  - ASNT, American Society for Non-Destructive Testing
  - ASTM, American Society for Testing and Materials
  - ASCE, American Society of Civil Engineers
  - ASHRAE, American Society of Heating, Refrigeration and Air-conditioning Engineers
  - AWWA, American Waterworks Association
  - AWS, American Welding Society
  - CINI, Insulation for Industries
  - CMAA, Crane Manufacturers Association of America
  - CRSI, Concrete Reinforcing Steel Institute
  - CSI, Construction Specifications Institute
  - EJMA, Expansion Joint Manufacturers Association
  - FCI, Fluid Control Institute
  - FM, Factory Mutual
  - GPA, Gas Processors Association
  - HFES, Human Factors and Ergonomics Society
  - IBC, International Building Code
  - ICEA, Insulated Cable Engineers Association
  - IESNA, Illuminating Society of North America
  - IEEE, Institute of Electrical and Electronics Engineers
  - ISA, International Society for Measurement and Control

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- MSS, Manufacturer's Standardization Society of the Valve and Fitting Industry
  - NACE, National Association of Corrosion Engineers
  - NEMA, National Electrical Manufacturers Association
  - NFPA, National Fire Protection Association
  - NFSA, National Fire Sprinkler Association
  - OCIMF, Oil Companies International marine Forum
  - OSHA, Occupational Safety and Health Administration
  - PCI, Precast/Prestressed Concrete Institute
  - PIP, Process Industries Practices, Piping
  - SAE, Society of Automotive Engineers
  - SDI, Steel Door Institute
  - SIGTTO, Society of International Gas Tanker and Terminal Operators
  - SMACNA, Sheet Metal and Air Conditioning Contractors National Association
  - SSPC, Steel Structures Painting Council
  - TEMA, Tubular Exchanger Manufacturers Association
  - UFC, Uniform Fire Code
  - UL, Underwriters Laboratories

#### **4.3 Project Engineering Plan**

Bechtel shall produce a detailed project engineering plan ("Project Engineering Plan") for review by Company within sixty (60) Days after Notice to Proceed. The Project Engineering Plan will provide a summary of the procedures, plans, and execution methodologies to be used by Bechtel to develop the engineering design in accordance with the Applicable Codes and Standards and the requirements of the Agreement.

#### **4.4 Engineering Design**

##### *4.4.1 General*

In addition to any other engineering requirements specified in Attachment A or any other provision, Attachment or Schedule of the Agreement, the following services, Drawings, and

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Specifications, as a minimum, shall be provided by Bechtel in respect of all engineering disciplines during engineering of the Phase 2 Facility:

- a. Developing new Drawings sufficient for procurement of materials, installation, construction, manufacture, fabrication, commissioning, startup, testing, operation and maintenance of the Phase 2 Facility
- b. Preparation of Equipment data sheets
- c. Preparation of Drawings for the Phase 2 Facility and related Drawing list
- d. Preparation of engineering material requisitions and purchase requisitions, and amendments as necessary up to record status
- e. Technical evaluation for all Major Equipment
- f. Review of vendor data, Drawings and other documentation for engineered Equipment
- g. Detailed material take-offs and monitoring of material changes for all disciplines
- h. Development of acceptance test requirements for all Major Equipment
- i. Development and implementation of a plan for witnessing of factory acceptance tests at vendor's shops for all Major Equipment
- j. Drawings control, vendor data, documentation control and review process utilizing Bechtel's computer database document control procedure
- k. Review of vendor's recommended spares for Equipment and prepare final recommended operating spare parts list
- l. Development of technical documents for Company Contractors
- m. Provision of engineering support for procurement, construction and commissioning, including assistance to Company Contractors in the interpretation of technical requirements and Drawings
- n. Preparation of mechanical catalogues and vendor data books
- o. Provision of all Record Drawings and Specifications
- p. Tie-in Drawings
- q. Development of Equipment lists, instrument index, line lists, material lists, and supplier lists
- r. Review of Company Contractors' drawings and document and advise Company of review comments

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#### *4.4.2 Process and Systems*

Bechtel shall be responsible for developing the following Drawings and Specifications related to the process and process systems:

- a. Process flow diagrams with heat and material balances
- b. Piping and instrument drawings (“P&IDs”)
- c. Equipment list
- d. HAZOP review of P&ID’s, prior to issue for design. Any subsequent design changes on P&ID’s will be integrated into the design prior to finalization of design. Safety review of changes to Drawings after HAZOP will be done as part of a project management of change procedure.
- e. Bechtel shall conduct a safety integrity level (“SIL”) meeting to define integrity levels of critical control and safety systems.

#### *4.4.3 Plant Layout and Piping Design*

Bechtel shall be responsible for developing the following Drawings and Specifications related to the piping and piping systems:

- a. Plot plans, Equipment location plans, underground piping plans, key plans
- b. Electronic 3-D model
- c. Piping isometric Drawings
- d. Service class index
- e. Pipe support design Drawings
- f. Pipe stress analysis
- g. Piping Specifications

#### *4.4.4 Mechanical Design*

Bechtel shall be responsible for developing the following Drawings and Specifications related to the mechanical design of vessels, Tanks, heat exchangers, rotating Equipment, fired Equipment, special Equipment, and packaged Equipment:

- a. Equipment data sheets
- b. Equipment Specifications

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#### *4.4.5 Electrical Design*

Bechtel shall be responsible for developing the following Drawings and Specifications related to the electrical power supply and distribution:

- a. Electrical equipment data sheets
- b. Specifications for electrical Equipment and bulks
- c. One-line diagrams
- d. Electrical area classification Drawings
- e. Substation design
- f. Wiring layouts and plans
- g. Closed circuit TV, Facility communications, electrical security systems, and other electrical systems

#### *4.4.6 Civil / Structural / Architectural Design*

Bechtel shall be responsible for developing the following Drawings and Specifications:

- a. Foundations design basis
- b. Buildings layout and specifications
- c. Grading / drainage plan
- d. Foundation designs
- e. Piling designs
- f. Drainage, roads, and buildings

#### *4.4.7 Materials*

Bechtel shall be responsible for developing the following Drawings and Specifications related to materials selection, engineering, and applications technology:

- a. Material selection guide
- b. Corrosion control Specifications
- c. Painting and coating Specifications
- d. Insulation systems Specifications

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## **4.5 Procurement and Material Control**

### *4.5.1 General*

The Project procurement plan will provide a summary of the procedures, plans, and execution methodologies to be used by Bechtel for procuring Equipment, materials, goods and services within the scope of the Phase 2 Project (the “Project Procurement Plan”).

### *4.5.2 Project Procurement Plan*

Bechtel shall produce a Project Procurement Plan for review by Company within ninety (90) Days after Notice to Proceed, and Company will provide review comments within ten (10) Working Days after receipt.

- Inspection
- Expediting
- Supplier quality reports
- Technical requirement compliance
- Material control, marking, and certification
- Packing, consolidation, importing
- Transportation, handling, and storage
- Warranties and guarantees
- Vendor servicemen

### *4.5.3 Local Suppliers*

Bechtel shall give due consideration to local companies to provide materials and services, provided they are competitive in terms and price, proven quality, experience, expertise, service and delivery. The procedures shall indicate how Bechtel intends to ensure appropriate consideration of local suppliers.

### *4.5.4 Inquiries*

Bechtel shall ensure all inquiries request sufficient information to support a complete commercial and technical evaluation, including nearest parts and service location. Inquiries shall be issued to vendors/contractors on the approved contractors’ list. A sufficient number of qualified suppliers/subcontractors shall be invited to bid to ensure receipt of at least three (3) bona fide bids for reimbursable purchases unless otherwise agreed by Company.

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Bechtel shall prepare all inquiries to insure that the inquiry documentation is comprehensive and complete with all Drawings so that competitive bids received will require a minimum amount of conditioning.

#### *4.5.5 Bid Evaluations*

Bechtel shall issue a complete technical and commercial bid evaluation with recommendations for award to Company for review and agreement, prior to any award. Company technical and administrative personnel will work with Bechtel's staff in bid evaluations for all purchases of Equipment and other items.

#### *4.5.6 Purchase Orders*

Following agreement of the vendor list and bid evaluation, Bechtel shall issue a purchase order package to Company. Company will sign the purchase order, and Bechtel will send such purchase order directly to the Company Contractor (or Company Vendor).

#### *4.5.7 Communications*

Bechtel shall give Company in writing, at least ten (10) Working Days advance notice of proposed technical and logistics meetings and commercial negotiations. Company will indicate whether or not it will participate.

### **4.6 Welding**

Bechtel shall prepare and/or review all welding procedures, non destructive evaluation procedures and non destructive evaluation reports including radiographs for compliance to applicable standards for welding and testing. All cryogenic stainless steel piping that contains flammable fluids, except drains and vents, shall have 100% radiographic testing of all circumferential welds. Cryogenic stainless steel piping that contains flammable fluids for drains and vents does not require radiographic testing of circumferential welds if operating pressure is less than 20% of specified minimum yield stress, otherwise it shall have 100% radiographic testing of all circumferential welds. Carbon steel piping that contain flammable fluids and operates above -20°F, except fuel gas piping, shall have radiographic testing of 30% of each day's circumferential welds. Fuel gas piping shall be installed in accordance with NFPA 54.

Bechtel shall qualify all weld procedures, non destructive evaluation procedures, welder and non destructive personnel qualifications in accordance with ANSI B31.3 unless otherwise agreed by Company in writing.

## **5. COMPANY CONTRACTS AND BECHTEL SUBCONTRACTS**

### **5.1 General**

Bechtel shall engage Subcontractors as required to perform the Services.

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## **5.2 Project Subcontract Plan**

Bechtel shall produce a detailed Subcontract plan (“Project Subcontract Plan”) for review by Company within ninety (90) Days after Notice to Proceed. The Project Subcontract Plan will provide a summary of the procedures, plans, and execution methodologies to be used by Bechtel for bidding, evaluating, awarding, inspection, progress monitoring, technical requirement compliance, material controls, and expediting of Bechtel Subcontracts and Company Contracts.

## **5.3 Local Contractors**

Bechtel shall give due consideration to local companies to provide materials and services, provided they are competitive in terms and price, proven quality, experience, expertise, service and delivery. The Project Subcontract Plan shall indicate how Bechtel intends to ensure appropriate consideration of local contractors.

## **5.4 Bid Packages**

Bechtel shall be responsible for preparing and issuing bid packages or request for proposals for Subcontracts.

# **6. CONSTRUCTION**

## **6.1 General**

Bechtel shall produce a detailed construction plan (“Project Construction Plan”) for review by Company within ninety (90) Days after Notice to Proceed. Company will provide comments within ten (10) Working Days following receipt. The Project Construction Plan will provide a summary of the procedures, plans, and execution methodologies to be used by Bechtel for all management, controls, labor, supervision, consumables, tools, plant and Equipment necessary to construct, mechanically complete, test, and pre-commission the Phase 2 Facility. The Project Construction Plan will address the following:

- Construction procedures
- Phase I Interface Procedure
- Policies, rules and regulations for:
  - HSE
  - Personnel identification
  - Access to Site
  - Firearms, drugs, alcohol, animals, etc.
  - Access Equipment



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- Construction Permits
  - Parking
  - Vehicular access
  - Personnel orientation
  - Construction plant and Construction Equipment
  - Construction methodology
  - Demolition
  - Scaffolding and access equipment
  - Temporary Facilities
  - Work force training
  - Industrial relations
  - Public relations
  - Security
  - Transportation of Equipment
  - Construction dock
  - Utilities, chemicals, lubricants
  - Construction communication procedures
  - First fills
  - Punchlists
  - Close out
  - Demobilization

## **6.2 Site Preparation**

Bechtel shall be responsible for managing site preparation work by Company's Soil Contractor including:

- Removal of all vegetation

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- Soils improvement
  - Temporary and permanent roads
  - Top soil removal
  - Temporary and permanent drainage

### **6.3 Scaffolding and Access Equipment**

Bechtel shall provide a safe means of access to the work on the Phase 2 Project at all times, including for purposes of inspections by Company. Scaffolding must be substantial and appropriately designed for the job. Bechtel shall keep adequate records to demonstrate a system of regular inspection of scaffolds, by appropriately qualified personnel. Records shall also be maintained of calculations performed for load bearing scaffolds. Tags with inspection, and expiration shall be prominently displayed on all scaffolding.

### **6.4 Craneage and Lifting Equipment**

Bechtel shall only employ craneage and lifting equipment that has been tested and which are fit for purpose. All crane operators and riggers shall be adequately trained and must be able to demonstrate that they hold the appropriate certification. Bechtel shall keep records of tests and certification of all lifting equipment, craneage and operators employed in the Phase 2 Project work and Services. Bechtel shall comply with its internal rigging procedure MPT-4MP-T81-01903 for all lifting operations. Bechtel will submit rigging plans for lifts exceeding 50-tons, multiple crane lifts or lifts which are considered critical for review by Company or Company's designee.

### **6.5 Medical Facilities**

Bechtel shall provide provisions for suitable first-aid facilities which shall be available to all personnel at the Site, including those employed by Company, Company Contractors, Subcontractors and visitors.

The first-aid facilities, as a minimum, shall include a fully equipped first-aid room capable of treating injuries that can be anticipated on a construction site. Consideration shall be given for at least one qualified EMT or nurse on duty during the hours when construction work is in progress at the Site. Bechtel shall also provide a program of training for first-aid personnel among the workforce and establish an emergency response team, drawn from the medical and workforce first-aid personnel, to deal with serious on Site accidents.

Bechtel shall produce for review by Company within thirty (30) Days after Notice to Proceed, a plan detailing how emergency medical treatment will be administered. Such plan shall take into account capabilities of local hospital and medical facilities.

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## **6.6 Sanitation**

Bechtel shall provide adequate washing and latrine facilities for its workforce and for visitors permitted on the Site. These facilities shall be cleaned, disinfected, stocked with supplies and maintained regularly at all times and the disposal of sanitary waste shall conform to statutory requirements.

## **6.7 Housekeeping**

Bechtel shall provide suitable receptacles and services to ensure that all scrap materials, debris and spoil generated by Bechtel's construction activities, are collected regularly and properly disposed of. Disposal of such materials outside the Site shall be to a properly licensed land fill or environmental waste subcontractor, in accordance with Applicable Law and Permits.

As soon as practicable after the completion of all Punchlist items, Bechtel shall remove all Construction Equipment, construction trailers and other temporary facilities, and all other items brought onto the Site by Bechtel, Subcontractors or Sub-subcontractors which are not the property of Company, and remove from the Site and properly dispose of all scrap materials, debris and spoil. Bechtel shall allow all temporary construction laydown areas to naturally revegetate, unless such areas are designated for wetland mitigation or other use by Company that does not require such restoration.

## **6.8 Temporary Facilities**

Until Provisional Acceptance of all Systems, Bechtel shall provide all temporary facilities necessary for performance of the Phase 2 Project work and Services. All temporary buildings, piping, cabling, communications equipment, storage facilities, fencing, gates, gas detection equipment, utilities, and the like shall be removed on Provisional Acceptance of all Systems.

## **6.9 Health, Safety and the Environment (HSE)**

Within thirty (30) days after Company's issuance of NTP, Bechtel shall deliver to Company for its review the Health, Safety and Environmental ("HSE") plan which shall include the following sections:

- Project Outline, Scope and Project Organization
- Action Register
- HSE Interface Meetings
- Define Roles and responsibility
- Organization Charts Showing the HSE Organization and its Interfaces
- Environmental Plan
- Waste Management Plan
- Construction Environmental Control Plan
- Construction HSE Plan
- Traffic Management and Transportation Plan
- HSE Deliverables
- Project HSE Implementation Schedule

- 
- Interface with FERC and permitting agencies through Company

#### **6.10 Industrial Relations**

Bechtel shall prepare and provide to Company within ninety (90) Days following Notice to Proceed, its policies and plans for managing industrial relations at the Site, for review by Company. Such policies and plans shall cover working hours, right to work policies, working patterns, shifts, disputes procedure, welfare facilities (catering, sanitary, wet weather gear, protective clothing etc.), training, wet weather working, holidays and any other relevant matters.

Bechtel shall report all disputes or potential disputes involving Bechtel's or Subcontractors' employees to Company Representative as soon as practicable after they occur. Bechtel will be expected to take a pro-active role in managing industrial relations among such employees at the Site.

#### **6.11 Site Security**

Bechtel shall be responsible at all times for security at the Phase 2 Site until Provisional Acceptance of all Systems. Adequate fencing and security devices shall be provided and maintained to prevent unauthorized access to the Phase 2 Site and theft or damage. Bechtel shall employ sufficient security personnel to police the Phase 2 Site entrances, perimeter fencing and secure areas at all times and to carry out random searches of vehicle arriving or leaving the Phase 2 Site. Adequate security lighting of the Phase 2 Site shall be provided.

Bechtel shall prepare within thirty (30) Days after Notice to Proceed a security plan for the Phase 2 Site for review by Company, that shall address measures related to access to the Phase 2 Site by Company, Bechtel, Subcontractors, Sub-subcontractors and third parties, personnel identification, enforcement and compliance by all such Persons with the Phase 2 Site security policy. Bechtel shall be responsible for implementing, including monitoring of compliance with and enforcement of, such security plan.

#### **6.12 Phase 2 Site Materials Handling, Control and Preservation**

Bechtel shall utilize their Standard Policies and Procedures for all items of Equipment delivered to Phase 2 Site which will include, unless otherwise specified in Company Contracts:

- a. Receipt of all items delivered to the Phase 2 Site, including unloading, unpacking, inspection, storage and protection of same;
- b. Record and document any damage during shipping and follow-up for repairs and/or replacement;
- c. Ensure that all materials are used correctly and no materials are substituted without Bechtel's agreement;
- d. Safekeeping, in accordance with the vendor's/manufacture's guidelines/instructions for preservation of all Equipment on Phase 2 Site and ensuring that all materials are marked as being provided for the Phase 2 Project;

- 
- e. Establishing and maintaining an adequate security system to control access to Equipment storage sites and prevent theft or other loss;
  - f. Maintain records and account for all Equipment delivered and installed, and the remaining surplus and scrap for all Equipment;
  - g. Maintain and provide to Company upon request a critical items delivery report ("Procurement Status Report"), for Major Equipment and other critical items required for the Phase 2 Project;
  - h. Development and implementation of a materials handling methods procedure for the movement of all Major Equipment and materials; and
  - i. The inspection, care, preservation, and maintenance of materials and equipment.

#### **6.13 Material Control Procedure**

Bechtel shall implement strict material control throughout all phases of the Phase 2 Project. Bechtel shall submit to Company for review within ninety (90) Days after Notice to Proceed, its proposed material control procedures for inclusion in the Project procedures manuals, which shall include Bechtel's plans and procedures for the use of appropriate computer systems to manage material control and to provide Company with periodic status reports regarding the control of Equipment, and it shall submit its procedures for these systems for Company review.

#### **6.14 Material Marking**

All Equipment arriving on Phase 2 Site shall be inspected by Bechtel to ensure that it is marked according to Project requirements, and purchase order instructions. The marking of each item will act as a cross-reference to associated documentation, Drawings and work scope.

#### **6.15 Construction Utilities**

##### *6.15.1 Hydrotest water*

Company shall provide about 200,000 m<sup>3</sup> of hydrotest water of suitable quality per API 620, Appendix Q, within 4000 feet of the Tanks. Provision of and payment for Tank hydrotest water is the responsibility of Company. Upon completion of the hydrotest the water shall be returned to Company within 4000 feet of the Tanks.

##### *6.15.2 Electrical*

Company shall be responsible for provision of temporary building power from existing local power source. Bechtel and Company Contractors will provide all necessary construction power by diesel generators during construction until Provisional Acceptance of all Systems.

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#### *6.15.3 Potable Water*

Bechtel shall provide potable water and ice for the Phase 2 Site use, and ensure that a safe and plentiful supply of potable water and ice is available for all activities on the Phase 2 Site until Provisional Acceptance of all Systems. The water and ice for human consumption shall be of suitable quality.

#### *6.15.4 Air*

Until Provisional Acceptance of all Systems, Bechtel shall provide instrument air for testing and operation and compressed air suitable for construction, testing and drying and any other purposes required in connection with performance of the Phase 2 Project work and Services.

#### *6.15.5 Nitrogen*

Until Provisional Acceptance of all Systems, Bechtel shall provide all nitrogen as required for construction, testing, drying, purging and commissioning, including the Tanks. Nitrogen for testing, drying, purging and commissioning shall be derived from liquid Nitrogen.

#### *6.15.6 Fuels, Lubricants & Service Fluids*

Until Provisional Acceptance of all Systems, Bechtel shall provide all necessary fuels, lubricants, catalysts, and service fluids required for all Equipment, except that Company will supply Natural Gas for startup of the gas turbine generators and operation until Cool Down of Tank 1. Suitable temporary storage of fuels, lubricants, and service fluids shall be provided including secondary containment where required.

### **6.16 First Fill Materials**

Bechtel shall supply and install all first fill lubricants, chemicals, packings, distilled/deionized water. First fill materials shall be stored in accordance with the manufacturer's instructions. Bechtel shall provide SCV water, diesel fuel, caustic soda and lubricating oils from date of first fill, including changes and replenishments, until Ready for Handover.

### **6.17 Construction Management**

Bechtel will assist in procuring and will manage the full Phase 2 work including the work of Company Contractors, on behalf of the Company.

Responsibilities include the overall coordination and overall integration of the Phase 2 scope of work for the Phase 2 Project, including interfaces between Bechtel Subcontractor's and Company Contractors; assistance as requested by Company, to support the Company's co-ordination with other contractors or authorities outside the scope of this Agreement, with Bechtel providing assistance as requested by Company; ensure that the Phase 2 work is managed, progressed and completed in accordance with the schedule for the Phase 2 Project, with due expedition of all Phase 2 Project contracts; maintain an effective Bechtel presence, as required, through accomplishment of acceptance of work and as required under this Agreement during the warranty period; and implement sound and effective management procedures for the control,

## **7. QUALITY MANAGEMENT**

### **7.1 Quality Assurance Requirements**

Bechtel shall provide an integrated quality management group to operate the quality assurance, quality control and certification functions of the quality management system. The quality management group shall be independent from Bechtel's construction, procurement and scheduling activities.

### **7.2 Project Quality Plan**

Bechtel shall produce a detailed Phase 2 Facility-specific quality assurance and inspection plan ("Project Quality Plan") for approval by Company within sixty (60) Days after Notice to Proceed. Company will notify Bechtel within ten (10) Working Days after receiving the Project Quality Plan whether Company approves such plan, and if it does not approve the plan, will provide comments to Bechtel within such 10-Business Day Period, concerning those provisions which require changes in order for Company to approve the Project Quality Plan. The Project Quality Plan shall define the Bechtel organization and responsibilities of the quality management group personnel and shall detail the procedures Bechtel intends to use to manage and control those aspects of the work which may affect the quality of the completed Phase 2 Facility.

The Project Quality Plan shall meet the requirements of Section 3.18 of the Agreement, and be based on Bechtel's standard quality assurance procedures, and shall cover the following information:

1. Project quality policy
- B. Project quality objectives
- C. Management responsibilities and duties of all key QA personnel
- D. Quality assurance and quality control organization
- E. A list and status of the procedures that will be employed on the Project. Program of internal, supplier, and Subcontractor audits
  - Documentation and certification control
  - Control of nonconforming products or processes and corrective actions
  - Design validation
  - Material traceability for all cryogenic materials.

8. COMMISSIONING AND START UP

8.1 General

Commissioning and start up will be the responsibility of the Company. If requested, Bechtel will provide resources to support the activities on a seconding basis as indicated in the Agreement.

8.2 Operating and Maintenance Manuals

No Operating and Maintenance Manuals will be required from Bechtel. If requested, Bechtel will provide resources to support the activities on a seconding basis as indicated in the contract.

8.3 Performance Tests

No Testing will be required by Bechtel. If requested, Bechtel will provide resources to support the activities on a seconding basis as indicated in the contract.

8.4 Operating Tests

No Operating Tests will be required by Bechtel. If requested, Bechtel will provide resources to support the activities on a seconding basis as indicated in the contract.

9. PROJECT CONTROL

9.1 General

Bechtel shall plan and program the Phase 2 Project work and its resource requirements in accordance with the requirements of the Project Schedule. The project estimate and plan is based on the following milestones:

- |                                    |               |
|------------------------------------|---------------|
| • Notice to Proceed                | July 2006     |
| • Construction Start               | July 2006     |
| • Issue Soils Improvement Contract | July 2006     |
| • Mobilize LNG Tank Contractor     | August 2006   |
| • Award SCV', AAV's & GTG          | October 2006  |
| • Mobilize Piling Subcontractor    | December 2006 |
| • Issue Control Estimate           | December 2006 |
| • First Structural Steel Delivery  | April 2007    |
| • Start Foundation work            | April 2007    |
| • Delivery of First SCV to site    | December 2007 |
| • Turnover GTG to Cheniere         | October 2008  |
| • Final Acceptance                 | August 2009   |

9.2 Project Controls Plan

Bechtel shall produce a detailed Project controls plan ("Project Controls Plan") for review by Company within sixty (60) Days after Notice to Proceed. Company will provide comments within ten (10) Working Days. The Project Controls Plan shall detail the procedures Bechtel to



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be used by Bechtel to maintain the scheduling, control, progress, Change Order control, and reporting of all activities required to ensure that Provisional Acceptance of all Systems is achieved.

### **9.3 Program Reporting - Planning Network**

The Phase 2 Project work shall be planned, managed, monitored and controlled by use of an integrated critical path network planning system, derived from a work breakdown structure ("WBS").

### **9.4 CPM Schedule**

Bechtel shall produce a critical path method schedule that will be the reference schedule for the duration of the Phase 2 Project unless revised at the request of Company. The schedule shall be the Phase 2 Project baseline plan comprising a control network detailing all activities to be completed in a logical sequence and being in sufficient detail to identify key activities and restraints, interdependencies, interrelationships and resources required to control the Phase 2 Project.

The schedule shall:

Be consistent with the anticipated dates for completing Phase 2 Project work and Services;

Represent Bechtel's best judgment as to how the Phase 2 Project work and Services will progress and be completed in a timely manner;

Be a detailed graphic representation of all significant aspects of the Phase 2 Project work and Services, showing Bechtel's plans for performance of the Phase 2 Project work and Services;

Comply with GECP;

Indicate a level of detail sufficient for Bechtel to plan, organize, direct, coordinate, perform and execute the Phase 2 Project work and Services, and for Company to monitor the progress of the Phase 2 Project work and Services;

Include separate activities for each significant portion of the Phase 2 Project work and Services including activities for engineering, procurement, construction and pre-commissioning;

Show the duration, start dates, and finish dates for each activity;

Show activity number, activity description, and responsible Person (i.e., Bechtel, Company Contractor, Subcontractor, or Sub-subcontractor) for each activity;

Reflect logical relationships between activities with a reasonable duration for each activity, and show an uninterrupted critical path from the NTP to the anticipated dates for Provisional Acceptance of all Systems; and

Indicate all Phase 2 Project milestones for measuring progress of the Phase 2 Project.

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Bechtel shall until Provisional Acceptance of all Systems develop and maintain systems and procedures for the measurement of progress against the schedule. Bechtel shall measure progress based on actual Phase 2 Project work and Services completed.

#### **9.5 Meetings; Weekly Progress Meetings; Minutes**

Periodic meetings shall be held as required for the purpose of keeping Company fully informed of all aspects of the Phase 2 Project, and for reviewing execution plans, technical or financial concerns, progress status and scheduling of the Phase 2 Project work and Services, remedial actions, quality concerns, safety concerns, interfaces, and Company and Bechtel plans for resolving issues.

Commencing at NTP, weekly progress meetings will be held between Company's Representative or his designee, and any other Persons designated by Company, and Bechtel's Key Personnel at the appropriate Site location, or as agreed by the Parties, Company or Bechtel home office. Company and Bechtel shall agree on dates, standardized reports and agenda for such meetings well in advance as the Phase 2 Project demands.

Minutes of all progress-related meetings (including weekly and monthly progress meetings) shall be prepared by Bechtel (unless otherwise agreed by Company) and sent to Company in electronic format within five (5) Working Days following the meeting. The contents of the minutes shall be subject to review at the next weekly progress meeting. The format for the preparation of the minutes shall be mutually agreed. The minutes as a minimum should include decisions made, action item responsibilities and action dates and the results of assigned actions outlined in the previous minutes and shall be distributed to all attendees, Company Representative, and in accordance with the document distribution matrix, to be developed during the Phase 2 Project execution.

#### **9.6 Monthly Progress Reports**

Commencing with NTP, Bechtel shall provide a written Monthly Progress Report to Company no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through an agreed cut off date in the Month preceding the Month in which the Monthly Progress Report is issued. Bechtel shall provide Company with the number of copies of such reports and shall arrange for the distribution thereof as Company may reasonably request.

Commencing with NTP a progress meeting shall be held each Month by Bechtel at the Site or at an alternate site mutually agreeable to Company and Bechtel and at a mutually agreeable time, for the purpose of reviewing with Company the Monthly Progress Report issued during such Month.

Bechtel shall provide Monthly Progress Reports in a form reasonably acceptable to Company which will indicate, at a minimum:

- Narrative summary of progress
- A description, as compared with the Phase 2 Project schedule, of engineering, procurement, construction and pre-commissioning status including actual percentage complete versus

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planned percentage complete, document status, significant activities accomplished during the reporting Month, significant activities planned for the current Month and estimated dates on which RFH and Provisional Acceptance of all Systems shall be achieved

- Summary of milestones planned and actually completed
- Change Orders pending and approved
- Summarize Trends pending and approved
- Description of any problems (including any occurrence of which Bechtel is aware that could reasonably be expected to increase the cost of the Phase 2 Project or delay Provisional Acceptance of all Systems) and summary of plans for resolution
- A description of the status of the Permits, including the dates of applications submitted or to be submitted and the anticipated dates of actions by Governmental Instrumentalities with respect to such Permits
- A description of reportable environmental, health and safety incidents as well as any unplanned related impacts, events, accidents or issues that occurred during the reporting period
- A description of all safety and security issues
- A description of quality assurance activities
- Progress photos showing representative portions of the Phase 2 Site and the progress of the Phase 2 Project, including completed milestones, with a description of the photograph and the date taken
- All applicable information reasonably required by FERC and other Governmental Instrumentalities

#### **9.7 Quarterly Executive Progress Reports**

Commencing at NTP, within fifteen (15) Days after the end of each quarter, Bechtel shall provide Company an executive progress report ("Executive Progress Report") suitable for presentation to Company's executive management and shareholders in a form reasonably acceptable to Company. These reports will be presented to Company and discussed at a progress meeting to be held between Bechtel's Key Personnel and Company's Representative or his designee and any other Persons designated by Company, every four Months. The Executive Progress Reports will include:

- Narrative summary of progress
- Update of the status of the Phase 2 Project
- Progress photographs and other illustrations

- Description of any problems and summary of plans for resolution

## 10. CONTRACTOR INTERFACES

### 10.1 FERC Activities – Division of Responsibility

Company is required to provide regular reports and other information to the FERC during design, construction, and operation of the LNG Terminal as outlined in FERC Authorization, and in the Code of Federal Regulations (CFR), Title 49 – Transportation; Part 191 – Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety Related Condition Reports, and Part 193 – Liquefied Natural Gas Facilities: Federal Safety Standards. The Facility will also be subject to regular inspections by FERC staff, and continuous monitoring by inspectors providing reports to FERC. Bechtel shall assist Company for interfaces with FERC, including as specifically noted in the Division of Responsibility Matrix below:

FERC Activity	Company	Bechtel	Remarks
FERC Permit overall responsibility	P	S	
FERC communication/ questions/ clarifications/ data request/ follow up items	P	S	Bechtel will participate in FERC scoping and cryogenic review meetings to support Company as required.
FERC coordination during Project execution	P	S	
Department of Transportation (“DOT”) drug testing program during construction.	S	P	
FERC compliance and inspection during Project execution	P	S	
(a) Company’s Monthly Report			
(b) Environmental inspector’s weekly reports concerning construction activities;			
(c) Provide required Project data			
(d) Update FERC permit data			
(e) FERC technical reviews and occasional meetings			
(f) FERC witness of tests such as Tank foundation, hydro test, startup and commissioning etc.			
(g) Address FERC inspection and compliance issues			
Submit final report to FERC	P	S	
Obtain FERC Authorization	P	S	The FERC Authorization is required to site, construct and operate the Facility.
FERC’s authorization to commence operation	P	S	
Start-up and commissioning coordination with FERC	P	S	Company responsible for LNG supply, shipping and logistics, and Export Pipeline.

FERC Activity	Company	Bechtel	Remarks
FERC requirement for Project Books and Records to be maintained three years after Final Completion	P	Note 2	Note 2 - Bechtel to turn over Project records at the earlier of expiration of the Defect Correction Period or termination of the Agreement.

**Legend:**

P = Primary responsibility

S = Support as required

NA = Not applicable

**10.2 FERC Required Reports**

Company is required to provide regular reports and other information to the FERC during design, construction, and operation of the Facility. The Facility will also be subject to regular inspections by FERC staff, and continuous monitoring by inspectors providing reports to FERC. Bechtel shall assist Company with all interfaces with FERC as requested during the course of the project.

**10.3 Requirements of Department of Homeland Security**

Bechtel will support Company by providing any information needed in order for Company to meet these requirements.

**10.4 Vessel Security Plan**

Bechtel will support owner by providing any information needed in order for Company to meet these requirements.

**10.5 Existing Well**

An existing operating gas well is currently located on the Site. Bechtel shall at all times avoid interfering with the operation of the well and any related pipelines and facilities, and shall provide reasonable access to the operator of the well or pipeline for maintenance and other purposes.

**10.6 Environmental Mitigation**

Company is responsible for wetlands mitigation required by Permits, Applicable Law or Governmental Instrumentalities to be performed on or off the Site. Subject to Applicable Law and Permits, it is anticipated that most such mitigation will take place after the majority of construction by Bechtel has been completed. Bechtel shall cooperate to ensure the mitigation is accomplished expeditiously and with minimum interference.

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#### **10.7 WT Property**

Company is required to provide access to the owner of the WT property located at the southeastern corner of the Site. Such access can be by appointment only. Bechtel, Subcontractors, Sub-subcontractors, and any Persons for which they are legally responsible, shall not trespass upon the WT property for any purpose.

### **11. BECHTEL DELIVERABLES**

#### **11.1 Document Formats**

Bechtel shall provide engineering, procurement, construction and operating and maintenance documentation for all aspects of the Phase 2 Project work and Services. Documents developed by Bechtel and Major Subcontractors shall conform to the following:

1. Bechtel shall use industry standard 2D and/or 3D computer aided drawing systems (CAD). All final 2D CAD Drawing files generated by Bechtel must be compatible with 2D AutoCAD format. File levels (layers) of drawing attributes shall be retained in the original level structure and intelligence, wherever practical.
2. Software used for word processing shall be Microsoft Word.
3. Software used for spreadsheets shall be Microsoft Excel.
4. Hand-written documentation shall be minimized.
5. All documents shall be produced in a clear readable and reproducible manner.
6. Each page of the document shall carry the document number, revision, and a sequential page number.
7. Software used for scheduling shall be compatible with Primavera or Microsoft Project.
8. Databases shall be compatible with Microsoft Access or Oracle.

#### **11.2 Progress Reviews**

During the development of the Drawings and Specifications, Bechtel shall provide Company with reasonable opportunity to perform reviews of the design and engineering in progress. Such reviews may be conducted at Bechtel's office located in Houston, Texas or at any of its Subcontractor's offices. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents as agreed to by Bechtel and Company. The Parties acknowledge that any Company comments/instructions to Bechtel during such reviews will be documented by Bechtel. Final approval of owner's comments/instructions will be given to contractor by Company Project Manager.

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### 11.3 Documents for Company Approval

In addition to any other documents which Bechtel is required by the other provisions of the Agreement to provide for Company's approval, Bechtel shall submit copies of the following document, Drawings and Specifications to Company for formal review, comment, and approval.

- Process flow diagrams (PFDs) with heat and material balances
- Piping and Instrument Diagrams (P&IDs)
- HAZOP reports
- Plot plans
- Equipment location plans
- Equipment lists
- Equipment data sheets
- Equipment Specifications
- Acceptance test procedures for all Major Equipment and packages.
- Recommended spare parts lists
- Complete commercial and technical evaluation
- Electrical one-line diagrams
- Piping layouts (from the 3D model)
- Bidders lists
- Electrical area classification drawings
- Building layouts
- Material selection guide

### 11.4 Documents for Company Review

In addition to any other documents which Bechtel is required by the other provisions of the Agreement to provide for Company's review, Bechtel shall submit copies of the following documents, Drawings and Specifications to Company for review and comment. These documents are not subject to Company approval; however, Bechtel will consider all Company comments. In addition, Company may select other documents with the agreement of Bechtel.

- a. Piping Specifications

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- b. Underground piping plans
  - c. 3-D model
  - d. Minutes and reports of HAZOP reviews and management of change reviews
  - e. Minutes and reports of safety integrity level (SIL) meetings
  - f. Key plans
  - g. Standard detail Drawings
  - h. Corrosion control Specifications
  - i. Painting and coating Specifications and charts
  - j. Insulation system Specifications
  - k. Technical evaluation for all materials and Equipment
  - l. Factory acceptance test reports

#### **11.5 Review Periods**

Company shall have up to ten (10) Working Days from its receipt of the documents listed in Sections 1.3 and 1.4 above, to issue to Bechtel written comments on such documents, Drawings and Specifications. Company will annotate the Drawings and Specifications as appropriate and return to Bechtel. In the event that Company disapproves the Drawings or Specifications, Company shall provide Bechtel with a written statement of the reasons for such rejection within the time period required for Company's response, and Bechtel shall provide Company with agreed to revised and corrected Drawings and Specifications as soon as possible thereafter. Bechtel shall report on Company's Drawing Review status on a weekly basis.

#### **11.6 Record Drawings and Specifications**

Bechtel shall deliver to Company the documents, Record Drawings and Specifications listed below. All Record Drawings shall be provided in their native formats. Scanned documents, ".pdf", and other non-editable formats are only acceptable for Subcontract (including Supplier) records where Bechtel can not obtain the native format, or where approved as an exception by Company.

Record Drawings and Specifications shall be handed over in hard copy printed format, and in electronic format by compact disks (CDs). CD's shall have a specific index of CD contents on each CD in "Document Register" format that includes the document number, title and revision. CD's shall be organized in a logical structure by discipline. A master index shall be prepared to detail the contents of all handover CD's listed by CD number and contents.



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Record Drawings shall be inclusive of all design changes and field changes made up to Provisional Acceptance of all Systems with “Record Drawing” in the revision block or with an as-built stamp. Vendor prints to be review Code 1 (work may proceed) or Code 4 (Review not required work may proceed). Hand annotations on CAD prepared Record Drawings and Specifications are not permitted.

- a. Piping and Instrument Diagrams (P&IDs)
- b. Plot plans
- c. Underground plans
- d. Electrical area classification Drawings
- e. One-line diagrams
- f. Start up, operating and maintenance manuals
- g. Vendor data books

#### **11.7 Turnover Documents**

Bechtel shall deliver to Company the turnover documents listed below. All turnover documents shall be provided in their native formats; however turnover documents may contain clearly legible hand annotations if necessary provided a scanned or “.pdf” files of the annotated document is also provided along with the native file. Scanned documents, “.pdf”, and other non-editable formats are acceptable for Subcontract (including supplier) records where Bechtel cannot obtain the native format, or where approved as an exception by Company.

Turnover documents shall be handed over in hard copy printed format, and in electronic format by compact disks (CDs). CD’s shall have a specific index of CD contents on each CD in “Document Register” format that includes the document number, title and revision. CD’s shall be organized in a logical structure by discipline. A master index shall be prepared to detail the contents of all handover CD’s listed by CD number and contents.

Turnover Documents shall be the last revision issued by Bechtel

- a. Process flow diagrams (PFDs) and heat and material balances
- b. Equipment location plans
- c. Key plans
- d. Cabling plans
- e. Piping Specifications
- f. Painting and insulation summaries

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- g. Building layouts
  - h. Equipment data sheets
  - i. Material selection guide
  - j. Quality records and certification documentation
  - k. Tie-in Drawings
  - l. Equipment list
  - m. Instrument list
  - n. Line list
  - o. Punch Lists (if any)

**Schedule A-2**

**DESIGN BASIS**

The Design Basis consists of the following items, plus the bases of design, technical parameters and Specifications contained in the other provisions of Attachment A.

Company shall be responsible for the information designated below as “Rely Upon”. Subject to the requirements of Section 4.8 of the Agreement, items listed as “Rely Upon” are considered to be part of the Design Basis. Bechtel is entitled to rely upon the specific information provided or to be provided by Company for the items designated as “Rely Upon”; however, Bechtel shall be obligated to take such information into account and to perform all relevant portions of the Phase 2 Project in accordance with such information.

Items designated below as “Design Req’t” are design requirements which define some of the specifications, philosophies, selections, results, data or other information that have been developed prior to the Contract Date. These design requirements must be complied with unless modified by Company during the Phase 2 Project.

	<u>Item</u>	<u>Design Basis</u>	<u>Remarks</u>	<u>Design Req’t</u>	<u>Rely Upon</u>
<b>1</b>	<b>General</b>				
1.1	Required daily Sendout Rate, annual average	1400 MMscfd	Bechtel is not obliged to guarantee the annual average Sendout Rate		Yes
1.2	Installed Capacity	1440 MMscfd based on Trinidad LNG	Running installed spares, provided pressure drops permit.	Yes	
1.3	Installed spare availability	Electrical systems and control systems must have sufficient capacity to operate all connected Equipment.	The sendout capacity with all spares operating cannot be guaranteed, but if the Equipment is up, LNG is available, and the Export Pipeline can take the gas, this capacity should be available.	Yes	
1.4	Design Natural Gas Sendout Temperature	40 F (4.4 C) minimum measured at vaporizer outlet		Yes	
1.5	LNG Mol. Wt.	17.1 - 18.9 To include the leanest of the lean and the richest of the rich for the Atlantic Basin (including Middle East)	See Section 1.13 below		Yes
1.6	Source of LNG	Assume Trinidad, West Africa plus spot market which could be from any source in the Atlantic Basin, including Middle East.	See Section 1.13 below		Yes
1.7	Battery limit Natural Gas pressure requirement	1440 psig at Design Sendout Rate downstream of Master Meter	At battery limit	Yes	
1.8	Sparing philosophy	N+1 philosophy for all major equipment (booster pumps, vaporizers) includes one installed spare SCV and Sendout Pump shared between Phase 1 and 2.	Each piece of Equipment must be able to be isolated for maintenance. See Section 1.9 below.	Yes	
1.9	Manual Isolation	Be able to safely isolate every piece of Equipment (booster pump/SCV train considered as one unit).	Double block and bleed for all (liquid) LNG lines and vapor over 50 psig.	Yes	
1.10	Venting	No venting allowed under normal operations. Small purge of N2 allowed. Maintenance vents, drains allowed. The primary purpose for this vent is emergency venting of Natural Gas to a safe location (as required by code).	This vent is NOT to be used as a flare. There may be times the vent is ignited by static electricity or lighting, therefore, the tip needs to be specified with flare materials. Fire suppression (using N2 plug flow) to be supplied.	Yes	

	Item	Design Basis	Remarks	Design Req't	Rely Upon
1.11	BTU control	No BTU Control system will be provided	Removable spool is shown on P&ID.		Yes
1.12	Design Life (subject to Article 12 of the Agreement)	25 years		Yes	
1.13	LNG specification range	Equipment sizing based on rich case and lean case for all LNG from the Atlantic Basin and the Middle East. Equipment must be designed on the most stringent LNG based on the four LNG Specifications provided.	Although determination of LNG specification range is Company's responsibility, Bechtel shall be responsible for appropriate sizing of Equipment based upon the LNG. compositions specified below		Yes
	<b>Component</b>	<b>Lean Feed (mole %)</b>	<b>Rich Feed (mole %)</b>		Yes
	Supply source	Trinidad	NLNG		Yes
	N2	0.05	0.137		Yes
	CO2	0	0		Yes
	C1	94.75308	89.342		Yes
	C2	3.550116	5.322		Yes
	C3	0.916118	3.357		Yes
	i-C4	0.340988	0.731		Yes
	C4	0.339701	1.1		Yes
	i-C5	0.05	0.011		Yes
	C5	0	0		Yes
	C6	0	0		Yes
	C7-plus	0	0		Yes
	Total	100	100		Yes
	Density [kg/m3]	441.6	466.4		Yes
	Mol weight	17.1	18.5		Yes
	HHV [Btu/Scf] (1)	1067	1142		Yes
	LHV [Btu/ Scf] (1)	963	1032		Yes
(1)	Standard conditions for US are 60 F and 14.7 psia				Yes

Item	Design Basis	Remarks	Design Req't	Rely Upon
<b>Supply source</b>	<b>Algeria Unknown Facility</b>	<b>Unknown Facility B</b>		Yes
N2	1.4	0.43		Yes
CO2	0	0		Yes
C1	89.8	84.56		Yes
C2	6	10.93		Yes
C3	2.2	3.21		Yes
i-C4	0.3	0.47		Yes
C4	0.3	0.38		Yes
i-C5	0	0.02		Yes
C5	0	0		Yes
C6	0	0		Yes
C7-plus	0	0		Yes
Total	100	100		Yes
Density [kg/m3]	464.4	475.9		Yes
Mol weight	17.92	18.90		Yes
HHV [Btu/Scf] (1)	1088.0	1157.0		Yes
LHV [Btu/ Scf] (1)	982.7	1046.5		Yes
(1) Standard conditions for US are 60 F and 14.7 psia				Yes
1.14 Equipment for Startup	Facility will be designed to allow start up when the first Tank is ready along with its associated piping and facilities.		Yes	
1.15 Cool Down assumptions	Assume Cool Down with LNG (not LN2).		Yes	
<b>2 Emergency Issues</b>				
2.1 Three Emergency Shutdown interlocks to be provided	ESD-1	Ship unloading shutdown: LNG transfer will stop in a quick, safe, and controlled manner. All connections remain as is, all ship LNG transfer pumps shutdown. Manually activated by ship or the Facility, automatically activated by large unloading arm movement, HHLL in Tank or high pressure in Tank. Confirm during HAZOP review	Yes	
2.2	ESD-2	Ship unloading shutdown and disconnection of unloading arms with minimum LNG spillage. Manually activated by ship or the Facility, automatically activated by gross unloading arm movement. ESD-1 has activated. Confirm during HAZOP review	Yes	
2.3	ESD-3	Facility vaporization shutdown and isolation of all vaporization trains. Manually activated. Ship unloading mode is unaffected. Confirm during HAZOP review	Yes	

	Item	Design Basis	Remarks	Design Req't	Rely Upon
<b>4</b>	<b>Site Description</b>				
4.1	Wetlands	Delineation of wetlands is in the Army Corps of Engineers Permit	Company's responsibility		Yes
4.2	NOx limitations	NOx emissions as defined in the Air Permit	Total NOx emissions classify Project a "major" source in Louisiana. This requires PSD permitting. No special NOx reduction measures are required downstream of the equipment		Yes
4.3	Land Available	As described in <u>Attachment Y</u> of the Phase 1 Contract Document. Sufficient land is available for Phase 2.	Company's responsibility		Yes
4.4	Permanent Easement Availability	As described in <u>Attachment Y</u> of the Phase 1 Contract Document. No known restrictions on easements required for Phase 2.	Company's responsibility		Yes
4.5	Access Roads, Bridges & Other Infrastructure	Initial access roads and related infrastructure established by Phase 1. Additional in-plant access roads will be installed in Phase 2.		Yes	
4.6	Final Site Elevation (NAVD88)	As required for drainage and raised pads to protect Equipment and buildings from storm surge of 14.0 ft.	MSL=NAVD88 + 1.39'	Yes	
4.6.1	Tank impoundment floor	High point elevation as required to meet the capacity required by 49 CFR 193. Same as Phase 1 LNG Tanks Impoundment floors.	Grading and drainage per code, sump will be below ground level. High ground water must be considered during design.	Yes	
4.6.2	Improved areas	High point elevation as required for adequate drainage	Common grounds, administration building lawn		Yes
4.6.3	Process and pipeways	Bottom of pipe elevation = 14.0 ft. NAVD88 minimum.		Yes	
4.6.4	Interfacility Roads and parking	2 feet minimum above natural grade elevations or final site elevation.	Asphalt surface	Yes	
4.6.5	Buildings	Bottom of slab elevation = 14 ft. NAVD88 minimum.		Yes	
4.6.6	Top of dike elevation	As required to achieve design capacity required by 49 CFR 193. Same as Phase 1	15 foot wide road at vehicle access areas along top of dikes on east and north side, 10 foot wide road on intermediate dike.	Yes	
4.6.7	Tanks	On elevated piles, 3 ft air gap preferred.		Yes	
4.7	Geotechnical Conditions	See the Geotechnical Reports	Most Equipment, buildings, and structures to be on pile foundations Dikes and roads will not be.	Yes	
4.8	New roads	Yes, new in-plant access roads will be provided.		Yes	
4.9	Natural land characteristics	Plant footprint shall limit impact to the land. Temporary construction laydown areas must be returned to its natural state.		Yes	
4.10	Drainage	Original drainage patterns should be preserved as much as possible.		Yes	

	Item	Design Basis	Remarks	Design Req't	Rely Upon
4.11	Differential settlement	The engineering design shall be such that a six (6) inch differential settlement between pile-supported structures and adjacent non-piled facilities or fill/improved areas which may occur from Provisional Acceptance of all Systems through the expected lifetime of the Facility will not cause any Defects with normal monitoring and maintenance provided by Company.		Yes	
<b>5</b>	<b>Seismic Conditions</b>				
5.1	Basic Seismic Design to be per ASCE 7 and NFPA 59A.	See ABS Consulting report in Resource Report 13 for more details		Yes	
5.2	Operating Basis Earthquake (OBE)	OBE Peak Ground Acceleration = 0.03g, OBE spectral acceleration at 1-second period is 0.03 g			Yes
5.3	Safe Shutdown Earthquake (SSE)	SSE Peak ground Acceleration = 0.05g, SSE spectral acceleration at 1-second period is 0.06 g			Yes
<b>6</b>	<b>Climatic Data</b>				
6.1	Design Ambient Temperature	Minimum: 14 deg F; Maximum 90 deg F	No heat tracing required for freeze protection		Yes
6.2	Maximum Design Barometric Pressure Change	0.295 inches of Hg/hr (10 mbar/hr)			Yes
6.3	Maximum Design Wind Speed	150 mph (67.1 m/s) sustained.	Special wind speed requirement per CFR, Title 49, Part 193. Wind design to otherwise conform to ASCE-7, exposure C, I=1.0.		Yes
6.4	Maximum Rainfall in 24 hours , 100 year storm event	13.3 inches per hour for 100 year storm	49 CFR requires water removal rate at 25% of the collection rate from a 10 year frequency and one hour duration rainfall.		Yes
6.5	Maximum Design Snowfall	Zero			Yes
<b>7</b>	<b>LNG Storage Tanks</b>				
7.1	Type of Tank	Single containment on piles, no bottom or side penetration		Yes	
7.2	Number of Tanks	Two total		Yes	
7.3	Capacity (Gross)	169,600 m3	Tank Subcontractor to confirm.	Yes	
7.4	Capacity (Working)	160,000 m3		Yes	
	Tank OD	269 feet (82 meters)	Tank Subcontractor to confirm.	Yes	
7.5	Minimum Heel	1 meter	Minimum level sets NPSH available for in-tank pump	Yes	
7.6	Maximum Design LNG Density	30.5 lb/ft3 (489 kg/m3)			Yes
7.7	Minimum Design LNG Temperature	-265 F (-165 C)	Dependent on LNG composition. Set temperature based on Hysys simulation.		Yes
7.8	Maximum Internal Design Pressure	2.5 psig (172 mbarg)		Yes	
7.9	Minimum dike height	Match Phase 1 top of dike.		Yes	

	Item	Design Basis	Remarks	Design Req't	Rely Upon
7.10	Support Piles	Piles required. See the Geotechnical		Yes	
7.11	Maximum Tank Heat In-Leak Rate at 90 F (32.2 C)	0.05 vol%/day/tank (based on pure methane)	By calculation		Yes
7.12	Instrumentation Philosophy	Fully automatic as shown on P&IDs	Instrument and control philosophy will follow PHASE 1 guidelines.	Yes	
7.13	Tank spacing	Per NFPA-59A	Refer to plot plan PDP-SK-25169-102-00016	Yes	
7.14	Number of in-Tank pumps	3 pumps with one spare well in each Tank. Spare well is not piped or wired up. Foot valve is to be provided with each spare well.	Six in-Tank pumps installed in 2 Tanks.	Yes	
7.15.1	Level control and safeguarding:	Level indicators provided to control limits of LNG level will be per NFPA 59A requirements.	Two automatic, continuous Tank level transmitters to be provided. In addition there is a high level switch installed. A level, temperature, and density transmitter will be supplied for density profiling. Redundant temperature profile indicators in annular space.	Yes	
7.15.2			On low low flow (FALL), and high high motor current (IAHH) in Tank pumps are stopped automatically.	Yes	
7.15.3			On high high level (LA/HH), the unloading operation is stopped by activation of ESD-1.	Yes	
7.16.1			1. Absolute pressure control loop dedicated to BOG Compressor capacity control.	Yes	
7.16.2	Pressure control and safeguarding:	Three pressure control loops to be provided	2. Pressure control loop (on gauge pressure) dedicated to the vent valve to relieve high pressure (set just below PSV pressure).	Yes	
7.16.3			3. Pressure control loop (on vacuum gauge pressure) dedicated to introduce Natural Gas from the Sendout Pipeline to prevent vacuum (set just above VSV pressure).	Yes	
7.16.4			HP venting is controlled with 1 pressure transmitter at each Tank, with logic opening the vent based on the highest reading. LP vacuum breaker is controlled with same pressure transmitter at each Tank, logic opens the gas makeup based on the lowest reading. BOG capacity control is also controlled by same transmitter.	Yes	
7.17	Tank shutdown	Two redundant ESD pressure transmitters	Two pressure (gauge) transmitters are dedicated to emergency shutdown (stop compressor on low pressure; stop unloading operation via an ESD-1 in case of high high pressure) . To be confirmed during HAZOP review	Yes	
7.18	Impounding area	Yes, one per Tank with remote sump in each.	110% of full storage	Yes	
7.19	Tank Startup	Facility will startup when the first Tank is cooled down	Confirm Whether or not the remaining Tank will be finished under hot-work permits. Positive Tank isolation is required.	Yes	



	Item	Design Basis	Remarks	Design Req't	Rely Upon
7.20	Tank Deluge system	Provide 3 water monitors on elevated posts (equal to dike height) pre-aimed for maximum coverage of Tank side. In addition, two (pressure boosted) monitors are located on top of the platform of each tank which can be aimed at the max radiation spots.		Yes	
<b>8</b>	<b>Ship Berths</b>				
8.1	Number of ships to unload simultaneously	Two at combined rate equal to maximum permitted by both LNG ship capabilities and procedures.	See 8.4 below		Yes
8.2	LNG ship size	86,500 m3 to 250,000 m3	For 250,000 m3 ship, length overall (LOA) = 344m, molded breadth (Bmld) = 54m, operating draft = 12 m, molded depth (Dmld) = 27m, length between perpendiculars (LBP) = 332 m.		Yes
8.3	Frequency of LNG Ship Unloading (average)	One every 1.5 days based on 138,000 m <sup>3</sup> ship sizes.	Depends on size of ship. Larger ships will allow fewer loads.	Yes	
8.4	Average Ship Unloading Rate	12,000 m3/hr through two (2) 30" unloading lines.	Does not change with number of ships unloading. Two ships can unload but at half the rate.	Yes	
8.5	Maximum Shipboard LNG Storage Pressure	1.5 psig (103.4 mbarg)			Yes
8.6	Minimum Ship Pump Discharge Pressure	70.0 psig (4.83 barg)			Yes
8.7	Maximum Unloading Time	11.5 hours for 138,000 m3 ship, 16.7 hours for 200,000 m3 ship (Unloading rate is based on the LNG vessel capability and defined line sizes and layout)	Time to hookup, test, startup, cooldown, etc is excluded from the transfer time	Yes	
<b>9</b>	<b>Vaporization Process &amp; Regasification Process Pumps</b>				
9.1	Type of Main Vaporizers	Submerged Combustion Vaporizers (SCVs) with stainless steel tanks			Yes
9.2	Number of Main Vaporizers	Eight (8) to produce 1.4 BCF/d Annual Average Daily Sendout Rate	SCV's can actually produce approximately 180 MMscf/d, therefore 8 operating should be able to produce 1.440 Bcf/d if all are operating at their design rate. Sendout is minus fuel gas and Tank blanket gas.	Yes	
9.3	Heat source	Fuel gas for SCVs. Ambient air for Ambient Air Vaporizers (AAVs).		Yes	
9.4	Fuel Gas source	Supply will be from letdown sendout gas	Separate heater in water bath to heat fuel supply	Yes	
9.5	Capacity of Each Vaporizer	180 MMscf/d	Nominal capacity, based on proven SCV from T-Thermal.	Yes	
9.6	Control philosophy	Safe, stable Facility operation is automatically controlled. Adjustments to capacity are manually input within the operating range of the Equipment. DCS type system to control all Equipment.	Control philosophy will follow PHASE 1 guidelines.	Yes	

	Item	Design Basis	Remarks	Design Req't	Rely Upon
9.7	Vaporizer PSV	Per NFPA 59A paragraphs 5.4 and 6.8	Pipe all PSV tail pipes from the vaporizers to a high pressure vent. Low pressure PSV's will be piped to a separate low pressure vent.	Yes	
9.8	LNG Primary In-Tank Pumps Type	In-tank vertical turbine type with inducer	Inducer plus one or two stages ok.	Yes	
9.9	Number of In-Tank Sendout Pumps per Tank	Three (3)	See Item 7.14.	Yes	
9.10	In-Tank Sendout Pump Capacity	Normal 4,026 gpm @ 110 psig, rated at 4,304 gpm	Same as Phase 1	Yes	
9.11	LNG Booster Pumps Type	Vertical turbine type with inducer		Yes	
9.12	Number of LNG Booster Pumps	Eight (8 total)	Pipe one booster pump to one vaporizer, for a total number of 8 trains. No flanges or block valves between pump and vaporizer (in high pressure LNG). Double block and bleed at vaporizer discharge and send out pump suction.	Yes	
9.13	LNG Booster Pumps Capacity	Normal 1,578 gpm @ 1,549 psig, Rated at 1,686 gpm	Confirm flow rates and head. Same as Phase 1	Yes	
9.14	Sendout & Booster Pumps Bearing Life	3 to 5 years		Yes	
9.15	Ambient Air Vaporizer (AAV)	One pilot test train consisting of 11 AAV cells.	Nominal vaporization capacity = 94 MMscfd. Outlet temperatures will vary with ambient temperature and will be compensated by higher SCV outlet temperature.		
<b>10</b>	<b>Fire &amp; Gas Safety</b>				
10.1	Firewater Pump Number	3 + 1 jockey in Phase I plus 2 phase 1 booster pumps for Tanks	Use standby tug as a backup firewater pump	Yes	
10.2	Firewater Pump Capacity	7 total Phase 1 and Phase 2 pumps @ 4000 gpm each (see 10.1 comment)	Bechtel to verify capacity for code requirements	Yes	
10.3	Firewater Pump Driver (backup)	diesel engine, 1MW (see 10.1 comment)	Bechtel to verify size for capacity	Yes	
10.4	Firewater Pump Driver	diesel engine, 1MW (see 10.1 comment)	Bechtel to verify size for capacity	Yes	
10.5	Fire Protection System	Fresh water, dry powder, Nitrogen	Dry powder and nitrogen are for relief valves	Yes	
10.6	Firewater storage	Yes, use Firewater Pond provided by Phase 1. Capacity (to be confirmed) is sufficient to protect the overall plant based on 2 back to back fires each of 2 hours duration.	Fire water pond to also serve as a holding pond for the SCV overflow water and the AAVs defrost water.	Yes	
<b>11</b>	<b>Blowers &amp; Compressors</b>				
	Boil Off Gas (BOG)	BOG flow from Phase 2 Tanks will be handled by Phase 1 Compression and Recondensing equipment.	Diameter of BOG header to Phase 1 is initially set at 36", to be confirmed during design.		
11.1	Instrument Air Compressor Type	Lubed screw type	Purchase pre-packaged self contained units with dryers.	Yes	
11.2	Instrument Air Compressor Number	One 285 scfm unit	Same as Phase 1	Yes	
11.3	Instrument Air Compressor Driver	100 hp electric motor	Same as Phase 1	Yes	
11.4	Motors	All motors, without exception, will be minimum TEFC. Motors in Class 1 Div 1 areas will be explosion-proof		Yes	

	Item	Design Basis	Remarks	Design Req't	Rely Upon
12	Utilities				
12.1	Vent system	Yes, high pressure vent and Low pressure vent	Tank PSV and PV tailpipes vented directly to atmosphere at a safe location.	Yes	
12.1.1		LOW PRESSURE VENT: One common for all 3 tanks. Atmospheric vent (for maintenance vents/drain, and cooldown). Located away from LNG Tanks	Purchase a flare tip to prevent damage if accidentally ignited, but use as a vent. Phase 1 Low pressure vent will be used for Phase 2.	Yes	
12.1.2		HIGH PRESSURE VENT: To vent the tailpipes from the SCVs, AAVs and all other RVs with discharge pressure greater than 75 psig.	Phase 2 will vent to atmosphere	Yes	
12.2	Nitrogen package	Tie-in to the Company-provided system installed in Phase 1			Yes
12.3	Electric Power Supply	Self generate all electric power. One additional gas turbine generator LM-2500+		Yes	
12.4	Sparing philosophy for electrical power system	Adequate generation for overall Phase 1 / Phase 2 plant complex		Yes	
12.5	Standby Generator	Diesel, If required	Current assumption is that this standby generator will not be required, and adequate purchased power will be available from the local electrical utility agency.		
12.6	Instrumentation Philosophy	Plant control will be done by DCS. Prefer all packaged equipment vendors to provide the same brand and model PLC when possible.	Instrumentation Philosophy will follow PHASE 1 guidelines.	Yes	
12.7	Custody Metering of Natural Gas to Export Pipeline	Yes	Tie-in to Phase 1 metering system.		Yes
12.8	Fuel Gas System	Yes, low pressure for SCVs and gas turbine generators		Yes	
12.9	Pipeline relief philosophy	Not required at Facility			Yes
12.10	Communication System	LAN, telephone, and two-way radio		Yes	
12.11	Power available	Utility power is on site for Phase 1 construction and operating facility. No power is available for Phase 2 construction, allowances for portable generators have been made in owners cost. More investigation with power company is ongoing with owner.			Yes
12.12	Water requirements Construction	For personnel usage, 8000 gpd.	Construction personnel may peak at about 700, with an average of 170. Most construction water will be for personnel usage & washdown. All subcontractors will be required to supply water for their own use.	Yes	
12.13	Water requirements Hydrotest	Need about 100,000 m3 (26.4 million gallons) potable water to fill a Tank over a 2 week duration.	Company's responsibility; contractor to coordinate	Yes	
12.14	Service Water requirements Operation	Assume 160 gpm normal water usage rate (non continuous) with 240 gpm required for instantaneous max water rate.	An 8" Line will be installed during Phase 1, Phase 2 will connect to it.		Yes

	Item	Design Basis	Remarks	Design Req't	Rely Upon
<b>13</b>	<b>Buildings</b>				
13.1	Main Substation Enclosure	Prefab modular enclosure. Similar to Phase 1 counterpart.	Stand alone enclosure, Includes motor control and switchgear, also I/O for controls systems.	Yes	
13.2	Remote MCC Enclosure	Prefab modular enclosure. Similar to Phase 1 counterpart	Stand alone prefabricated modular enclosure adjacent to LNG Tank farm. No restroom. Contains UPS batteries, self contained eye wash near batteries, MCC, I/O cabinet, SIS cabinet, etc.		
13.3	Firewater pump house	18 ft x 30 ft Similar to Phase 1 counterpart. Required for 2 new firewater booster pumps		Yes	
13.4	HVAC	Heat pumps (not Natural Gas)		Yes	
				Yes	
<b>14</b>	<b>Export Pipeline</b>				
14.1	Pig receiver/launcher	Not in the Scope of Phase 2 Project	Leave space for others for Export Pipeline		Yes
14.2	Odorization	Not required			Yes
14.3	MAOP of Export Pipeline	1,980 psig	From the booster pumps through SCV up to and including ESD valves the line spec is 900# class. From the ESD valves through the metering skid the line spec is H1, 900# class.		Yes
14.4	Operating pressure	1440 psig			Yes
<b>15</b>	<b>Metering</b>				
15.1	Natural Gas metering	A Master Meter will monitor total Facility output. Custody transfer will take place at the connections to Export Pipeline.	Tie-in to Phase 1 meter. No additional metering equipment will be provided by Phase 2.		Yes
15.2	Type of meters for Main Sendout Meter	Ultrasonic, 0.25% accuracy			Yes
15.3	Number of custody transfer meters	See Phase 1 (meter flow rate to be confirmed)	Quantity and sizing are to be confirmed. Follow Phase 1 specification		Yes
15.4	Fuel gas meters	Ultrasonic, 0.25% accuracy		Yes	
<b>16</b>	<b>Miscellaneous</b>				
16.1	Low water bridge weight limit	25 tons (50,000 lbs) for dual axle trucks.	Hwy 82 crossing the mouth of Sabine Lake. The bridge is on the state line (Port Arthur on the west, Cameron Parish on the east). Bridge rotates for boat traffic. This is a serious limitation for east-bound construction traffic. Traffic from the east has the usual load limitation of 37,000 lbs – to be confirmed by Bechtel.		Yes
16.2	Power Failure	Upon power failure assume the security system stays up, control room is fully functional, ship unloading stops.	If an emergency situation exists where the ship is partially full but it must continue to unload (for what ever reason), assume displaced vapors will be vented.	Yes	

				Design Req't	Rely Upon
Item	Design Basis	Remarks			
16.3	Cryogenic Valves			Yes	
16.3.1	All cryogenic valves will be installed with the stem in the-vertical axis (rising upward). Maximum of forty-five degrees from vertical either way is allowed.			Yes	
16.3.2	All cryogenic valves will have a minimum extension of 18 inches as measured from top of flange.			Yes	
16.3.3	For on/off service, the cryogenic valve of choice is the ball valve or butterfly valve.			Yes	
16.3.4	Cryogenic gate valves are not acceptable. Use of gate valves of any type must have Company's prior written approval.			Yes	
16.3.5	Lug body and wafer butterfly valves are not acceptable.			Yes	
16.3.6	Cryogenic ball valves can be of the "floating-ball" or "trunion" design.			Yes	
16.3.7	All cryogenic valves must have a cavity vent (if applicable). All cavity vented valves must have permanent stenciled markings on the vented flange. The P&ID's must indicate the cavity vent side, i.e. – Preferred Pressure End (PPE).			Yes	
16.3.8	Cryogenic valves shall not be hydrotested. If water touches the graphite seals, the seal shall be replaced (not dried).			Yes	
16.3.9	All cryogenic check valves shall be drilled to allow a small backward flow of LNG. All cryogenic check valves NOT drilled must have Company's prior written approval. P&ID's must indicate all drilled check valve.			Yes	
16.4	Piping:			Yes	
16.4.1	All cryogenic connections will be a minimum of 2" in the vertical (up or down) until the first valve. Sizes can change after the first valve. Side connections are generally not acceptable. Only under very special conditions and only with Company's prior written approval will other arrangements be allowed.			Yes	
16.4.2	All cryogenic piping and fittings less than 2-inches in diameter shall be schedule 80.			Yes	
16.4.3	Threaded connections are not acceptable for cryogenic fittings and piping.			Yes	
16.4.4	Only dual certified stainless steels (where possible) will be used as piping.			Yes	

	<u>Item</u>	<u>Design Basis</u>	<u>Remarks</u>	<u>Design Req't</u>	<u>Rely Upon</u>
16.5	Miscellaneous:			Yes	
16.5.1		Sendout pump should be designed for NFPA-59A and API-610 guidelines		Yes	
16.5.2		High pressure vent to contain only the code required PSV tailpipes for the vaporizers. The low pressure vent to contain all other vents.		Yes	
16.5.3		All vessels shall be rated for full vacuum.		Yes	
16.5.4	Sendout Line	One 36" sendout line to be provided.	Line will be capable of and designed for 2.8 Bcf/d of capacity.	Yes	
<b>17</b>	<b>Guarantees and Warranties</b>				
17.1	Sendout Rate Performance Guarantee	Not Applicable		Yes	
17.2	Tank Heat Leak	Tank heat leak = 0.05% per day based on pure methane using approved calculation methodology.		Yes	
17.3	Warranty		Refer to Article 13 of the Agreement	Yes	
<b>18</b>	<b>Engineering Standards</b>				
18.1	Grid Coordinate System	Louisiana State Plane, South Zone, NAD 83			Yes
18.2	Elevation Reference	NAVD 88			Yes
<b>19</b>	<b>Interfaces</b>				
19.1	Reroutes	Existing 3 inch gas line from gas well to Rte 82 to be rerouted to avoid clash with Phase 2 facilities.	Company's responsibility		Yes
19.2	Wetland mitigation	Mitigation to be designed and constructed on or near Site	Wetland mitigation will be designed and constructed by others.		Yes

**ATTACHMENT B**

**SCOPE OF BECHTEL'S AUTHORITY AS AUTHORIZED REPRESENTATIVE**

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**1. Introduction**

1.1 Bechtel shall have the authority to act on behalf of Company as Company's Authorized Representative as set forth below.

**2. Solicitation, Drafting and Negotiation of Company Contracts**

2.1 Bechtel is authorized to identify potential Company Contractors for the procurement of equipment and materials, the provision of services, and construction of the Phase 2 Facility.

2.2 After Company's approval of each such potential Company Contractor, Bechtel shall be authorized to prepare bids/requests for proposals and solicit and receive bids from each such potential Company Contractor.

2.3 When requested by Company to do so, Bechtel shall be authorized to negotiate the Company Contracts with potential Company Contractors on behalf of Company. Bechtel is not, however, authorized to sign or otherwise execute any Company Contract on behalf of Company.

**3. Scheduling and Other Construction Planning**

3.1 Bechtel is authorized to request and receive from Company Contractors information necessary to organize the Phase 2 Project, including the creation of Phase 2 Project schedules.

3.2 Bechtel is authorized to request and receive from Company Contractors information necessary to prepare cost reports, progress reports, construction forecasts, estimates of monthly cash requirements, estimates for contract progress payments, and such other reports and data as may be required by Company.

**4. Performance, Quality and Progress of Company Contractors' Work**

4.1 Bechtel is authorized to request and review permits and other licenses required by the Company Contracts to ensure Company Contractors are in compliance with their contractual requirements.

4.2 Bechtel is authorized to work with Company Contractors to develop various procedures related to the performance of their work, such as welding procedures, testing procedures, calibration procedures, or other procedures necessary for the performance of the Company Contractor work and for which input from Company is required by the applicable Company Contract or otherwise is desirable.

4.3 Bechtel is authorized to monitor the progress of Company Contractors' work and observe all such work at the Phase 2 Site. If requested by Company, Bechtel is authorized to observe the performance of such work at other locations.



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4.4 Bechtel is authorized to inspect Company Contractors' work to the same extent Company is permitted to do so under each Company Contract.

4.5 Bechtel is authorized to issue to Company Contractors notices of non-compliance with contractual obligations; if necessary and appropriate, Bechtel may recommend to Company further action with respect to such Company Contractors, including termination for default if the Company Contractor fails to correct such non-compliance in accordance with the terms of the applicable Company Contract. Bechtel shall not be authorized to issue such termination for default on behalf of Company.

4.6 Bechtel is authorized to assist Company with the enforcement of warranties from Company Contractors and their subcontractors and sub-subcontractors on the Phase 2 Project.

4.7 On behalf of and as requested by Company, as part of its Services, Bechtel also is authorized to perform expediting, quality surveillance and traffic services with respect to materials, equipment and supplies procured through Company Contractors. As used herein, "Quality Surveillance Services" consists of the review, observation and evaluation of processes, procurement, manufacturing operations, quality control systems and programs to monitor Company Contractor compliance with contractual quality requirements.

4.8 Bechtel is authorized to review and determine quantities of materials and equipment installed by Company Contractors and to assess the percentage completion of such Company Contractor work.

4.9 Bechtel is authorized to monitor Company Contractors' compliance, or lack thereof, with the applicable construction schedules for such Company Contractors. In the event a Company Contractor is not in compliance with the applicable schedule, Bechtel may issue a notice of non-compliance to such Company Contractor and direct such Company Contractor to comply with its schedule obligations. Bechtel is not authorized to order acceleration of the work of any Company Contractor if such acceleration would warrant a change order under the applicable Company Contract.

## **5. Review of Items and Requests for Information Submitted by Company Contractors**

5.1 Bechtel is authorized to receive and review items submitted by Company Contractors, including drawings, shop drawings, and samples. Bechtel is authorized to request additional information regarding such items, reject such items and accept such items to the same extent Company is permitted to do so under the applicable Company Contract.

5.2 Bechtel is authorized to receive and review requests for information ("RFIs") submitted by Company Contractors and to respond to such RFIs on behalf of Company.

## **6. Safety and Security**

6.1 Bechtel is authorized to monitor and direct compliance with the Phase 2 Project security obligations of Company Contractors.

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6.2 Bechtel is authorized to monitor and direct compliance with Phase 2 Project safety obligations of Company Contractors. This includes the authority to issue instructions related to safety and to stop unsafe work by Company Contractors to the same extent Company is permitted to do so under the applicable Company Contract. Bechtel may recommend to Company the removal from the Phase 2 Project of personnel not complying with the safety requirements of the Phase 2 Project, but Bechtel may not direct that such personnel be removed.

6.3 Bechtel is authorized to instruct Company Contractors, their subcontractors and sub-subcontractors to stop work in any area where Hazardous Materials are discovered to the same extent Company is permitted to do so under the applicable Company Contract. Bechtel is also authorized to instruct Company Contractors and their subcontractors and sub-subcontractors to leave and not re-enter any portion of the Phase 2 Site where Hazardous Materials are discovered.

6.4 Bechtel is authorized to work with the safety representatives of Company Contractors for implementation by the Company Contractors of specific programs designed to enhance safety awareness and promote accident and fire prevention.

#### **7. Insurance**

7.1 Bechtel is authorized to request and receive certificates of insurance, policies of insurance and any other information related to insurance from Company Contractors to the same extent Company is permitted to do so under the applicable Company Contracts.

7.2 Bechtel is authorized to request information and documents necessary to ensure that Company Contractors are in compliance with the insurance obligations of their respective Company Contracts.

7.3 Bechtel is authorized to investigate claims made by any Company Contractor on any insurance policy provided by Bechtel or Company with respect to the Phase 2 Project.

#### **8. Payment of Company Contractors**

8.1 Bechtel is authorized to receive and review invoices from Company Contractors and to provide its review and recommendations regarding such invoices to Company.

8.2 Bechtel is authorized to request and receive lien and claim waivers required by the Company Contracts.

8.3 Bechtel is authorized to request and receive other documents and documentation required by the Company Contracts to be included in invoices or delivered with invoices.

8.4 Bechtel is authorized to make payment on Company Contractor invoices from the Company Contractor Payment Account.

8.5 Bechtel shall not be authorized to withhold any amounts invoiced by Company Contractors, except with the express written consent of or direction from Company.

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**9. Completion of Company Contractor Work**

9.1 Bechtel is authorized to work with Company Contractors to develop punchlists for such Company Contractors as required by their respective Company Contracts.

9.2 Bechtel is authorized to identify and direct the correction of the work of Company Contractors that is not in compliance with the requirements of their respective Company Contracts to the same extent Company is permitted to do so under the applicable Company Contract.

9.3 Bechtel is authorized to receive certificates or notices of completion from Company Contractors, to review and evaluate any such certificates and notices, and to make recommendations to Company regarding whether such Company Contractor work is complete. Bechtel is not authorized to approve any such certificates or notices without the express written consent of or direction from Company.

**10. Company Contractor Claims and Requests for Change Orders**

10.1 Bechtel is authorized to receive and review claims, by requests for change orders or otherwise, for additional time and additional compensation from Company Contractors with respect to the performance of their work under the Company Contracts. With respect to such claims, Bechtel is authorized to request additional information and to seek clarification of such claims, and if Bechtel believes that the claim is not justified under the applicable Company Contract, Bechtel is authorized to convey that belief to the applicable Company Contractor. Bechtel is authorized to make recommendations to Company about accepting or rejecting such claims and regarding whether Bechtel believes a change order is justified under the applicable Company Contract.

10.2 If instructed by Company to do so, Bechtel is authorized to negotiate change orders with Company Contractors regarding claims. Bechtel is not authorized to execute change orders on behalf of Company.

**11. Site Access, Coordination, Lay Down and Storage**

11.1 Bechtel is authorized to coordinate access of all Company Contractors and their respective subcontractors, to and from the Phase 2 Site. As part of this coordination, Bechtel is authorized to schedule and coordinate access to the construction dock, plant, roads, and other delivery routes for all Company Contractors and their respective subcontractors.

11.2 Bechtel is authorized to coordinate and assign available space on the Phase 2 Site for lay down of materials, storage of materials and equipment and location of facilities, provided that Bechtel first consults with Company regarding such lay down, storage and location.

**12. Company Permits and Other Governmental Requirements**

12.1 Bechtel is authorized to assist Company in acquiring permits required for the Phase 2 Project.

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12.2 Bechtel is authorized to request and receive information from Company Contractors necessary for Company to comply with Applicable Law and any requirements of any Governmental Instrumentality with respect to sales and use tax or other taxes on the Phase 2 Project.

**13. Notice of Exercise of Authority Herein**

13.1 Bechtel shall provide Company with a copy of any written instruction, directive, notice, or other document issued hereunder.

**14. Company Right to Request Withdrawal and Supersede**

14.1 If Bechtel exercises its authority herein by issuing to any Company Contractor a directive, instruction, or order; or by granting any permission; or otherwise; Company may request that Bechtel withdraw or retract such directive, instruction, order, permission, or other exercise of authority, and Bechtel shall do so within two (2) days of any such request by Company.

14.2 Company has the right to supersede any exercise by Bechtel of Bechtel's authority granted herein.

ATTACHMENT C  
RECOVERABLE COST  
METHODOLOGY

EPCM Agreement

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## 1. LABOR COSTS

- 1.1. Company will compensate the actual cost to Bechtel of wages and salaries for such time as is directly devoted to the Services by Bechtel employees. Wages and salaries utilized for purposes of this section shall be the actual gross amount paid to the employee. A project roster will be provided to Company and maintained throughout the Phase 2 Project. Company approval is required for Services performed by Bechtel employees not listed on the roster.
- 1.2. Company will pay Bechtel a percentage mark-up on the base hourly rate for all hours worked to cover payroll burdens and all related costs such as employer social security contributions, unemployment insurance contributions, workers' compensation insurance, employer's liability insurance, vacation pay, holiday pay, sick leave, jury duty, retirement and pension plans, group medical insurance, overhead, and other such similar items.
- 1.3. Services performed by personnel from high value execution centers shall be charged at an all-inclusive rate per jobhour spent, including all overtime hours. This rate shall encompass all charges such as burdens, overheads, and other direct costs ("ODC"). This rate is fixed for the duration of the Agreement and is not subject to audit.
- 1.4. Company will pay Bechtel an amount equal to the actual invoice cost of agency and engineering subcontractor personnel plus a percentage mark-up of actual invoice cost of agency personnel and engineering subcontractor personnel to cover know-how, overhead, liability insurance, etc.

## 2. OVERTIME

Company will pay Bechtel based on the following policies for overtime hours. All overtime must be pre-approved by Company.

### 2.1. Salaried Employees

Employees designated NEX and EPO are paid one and one-half times their base hourly rate for any hours worked in excess of the normal workday or forty (40) hours in a workweek. Positions in this category generally include letter grades and number grades 21 through 24.

Employees designated EST are paid straight-time hourly rates for all scheduled and approved hours worked in excess of the normal workweek. Positions in this category generally include number grades 25 through 27.

Employees designated E do not normally receive overtime pay. However, if any overtime work schedule is approved in advance for this level of employee by Company, they may receive overtime pay at straight-time rates. Positions in this category generally include number grades 28 and above.

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2.2. Hourly Employees (Non-Manual)

All hourly status non-manual employees are designated NEX for overtime purposes. They are paid one and one-half times their base hourly rate for any hours worked in excess of the normal workday or forty (40) hours in a workweek. Positions in this category generally include letter grades and number grades 21 through 24.

2.3. General

All overtime rates and hours of work are subject to federal, state, or local labor laws- including the Fair Labor Standards Act (FLSA). In some states, the wage and hour laws on overtime may be more stringent than federal regulations. In such cases, the state laws take precedence.

Authorized paid time off taken during a workweek is counted as time worked for purposes of computing overtime pay for the scheduled workday or workweek.

2.4. High Value Execution Center Personnel

For all scheduled and approved hours worked by High Value Execution Center Personnel in excess of forty (40) hours in a workweek, Company will reimburse at the established unit rate.

2.5. Agency Personnel and Independent Contractors

Straight time rates shall apply for all hours worked by Agency personnel and independent contractors.

**3. OTHER DIRECT AND PASS-THROUGH COSTS**

3.1. Home Office Other Direct Cost Items

For the following other direct costs (ODC) for work performed by Bechtel's employees, agency personnel and independent contractors in home office locations, Company will compensate Bechtel at an ODC dollar rate per actual Home Office jobhours spent.

This rate includes all communications and communications services-related costs; reprographics; long-distance telephone; facsimile machines; equipment and supplies; telex; local communication costs of Bechtel personnel; printing; blueprinting; photostatting; reproductions; duplicating; postage; domestic courier services; consumable engineering and office supplies (to include supplies for computers, printers, and facsimiles usage); publications of project reports and other documents; computing-related costs; micro computers; terminal equipment; data processing; word processing; computer; computer software and hardware; 2D CADD, 3D CADD, and process engineering simulation services; and video-conference sessions, office facilities ( and all related costs), equipment, and operations.

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### 3.2. Home Office Pass-Through Costs

Company will reimburse Bechtel, at cost, for the items listed below:

- Travel, temporary assignment, or relocation expenses of personnel directly engaged in the progress of the Services in accordance with Bechtel personnel policies, including expenses of construction management and high value execution center personnel temporarily assigned to the home office(s). All travel (excluding travel between the Houston home office and the jobsite area), temporary assignments and relocation expenses require Company approval.
- International Federal Express, DHL, UPS, courier and messenger services, and other similar services.
- Costs, at reimbursable terms per this agreement for: management, legal, tax, insurance, accountants, and other specialists when directly engaged in the advancement of the Services, if pre-approved by Company.
- As approved in advance by Company, the cost of safety incentives, awards, and recognition events. Such costs shall not attract any burden, overhead or ODC's.
- The cost of meals for project meetings.
- Transportation costs, demurrage, hired hauling of materials, and all loading and unloading costs.
- All taxes, levies, import duties, etc., on or in connection with the performance of the Services, including licenses, permits, and inspection fees excepting only the following: taxes levied directly on or measured by net income, property tax on Bechtel assets, and the cost of licenses or permits required in order for Bechtel to carry on business in the jurisdiction wherein the services are performed.
- Any and all costs and expenses incidental to and reasonably necessary for the performance of the Services hereunder, as approved by Company.

### 3.3. Facility Costs

Company will reimburse Bechtel for each fully equipped work space provided for Company's and Company Contractor's exclusive use at a monthly rate. The details of the work spaces and associated facilities are summarized as follows:

- Available office sizes range from 100 square feet to 150 square feet. Available furnishings include a workstation type desk, credenza, two-drawer file cabinet, three-shelf bookcase, desk chair and two side chairs.
- A telephone handset will be provided for voice communication. The phone number associated with this handset will be configured to access an electronic voice



messaging system. Should the user require an analog phone line to support the use of a modem device, this can be provided at cost upon request.

- Each office is configured with two data jacks, one of which can be connected to a DSL service providing network connectivity to the Internet, thus allowing Company personnel to use their Company provided desktops and/or laptops to connect to the Company home office network via their corporate IT-sanctioned connectivity tools.
- Each office shall have access to common printer, photocopier and fax facilities all for the exclusive use of Company's resident project team in Bechtel's offices.

Additional office equipment and/or furnishings can also be supplied. Rates for these can be provided upon request.

#### 3.4. Field Other Direct Cost Items

For the following other direct costs (ODC) for Services performed by Bechtel's employees, agency personnel and independent contractors in field office locations, Company will compensate Bechtel at an ODC rate dollar rate per actual Non-Manual jobhours spent.

This rate includes communications and communications services-related costs; reprographics; long distance telephone; facsimile machines; equipment and supplies; telex; local communication costs of Bechtel personnel; printing; blueprinting; photostatting; reproductions; duplicating; postage; courier services; consumable field office supplies (to include supplies for printers and facsimile usage), field office computers including hardware, utility software and network connections.

#### 3.5. Field Pass-Through Costs

The following is a list of those items that will be billed on a pass-through basis to Company while at a construction site (jobsite, fab yard, etc.):

- Travel, temporary assignment (including per diems, uplifts, housing, etc.), and relocation costs of Bechtel's salaried non-manual personnel to the project site (field) office and return in accordance with Bechtel's policies.
- The actual cost of equipment, materials, supplies, and subcontracts required for the establishment and operation of temporary construction facilities, including, but not limited to, site offices, trailers, warehouses, first aid, toilets, parking lots, laydown and storage, fencing, and the like supplied by third parties.
- The actual cost of drug testing (as required) for all Bechtel personnel performing Services.
- The actual cost of protective clothing and safety equipment for Bechtel personnel. This excludes PPE equipment which is included in the small tools and supplies rate.

- 
- Costs associated with recruitment of labor for the performance of Services, including advertising, hiring halls, screening, and finder's fees.
  - Any and all other costs and expenses incidental to and reasonably necessary for the performance of the Services at the Phase 2 Site.

**4. TRAVEL AND RELOCATION**

Company will reimburse Bechtel the actual costs for travel and relocation expenses for employees engaged in the Services in accordance with Bechtel's established policies. All travel (excluding travel between the Houston home office and the jobsite area) temporary assignments and relocation require Company approval.

For hours executed by high value execution center personnel working in the U.S at the Bechtel's home offices or construction site (field) offices greater than three months, Company will reimburse at a flat unit rate for all jobhours worked to cover travel, relocation, and living expenses.

**5. BECHTEL SUBCONTRACTS**

Company will reimburse Bechtel the amounts paid or payable by Bechtel to construction contractors and other third parties for performance of any portion of the Services, including installation, construction, fabrication, and/or other field services, at actual invoiced cost to Bechtel plus a markup for processing and monitoring.

**6. BECHTEL PURCHASE ORDERS**

Company will reimburse Bechtel the amounts paid or payable by Bechtel to suppliers of materials, supplies, machinery, and equipment purchased as part of the Services for permanent installation in the Phase 2 Facility at actual invoice cost to Bechtel plus a markup for processing and monitoring.

**7. FIELD CRAFT LABOR**

Company will compensate the actual base salaries and wages paid to Bechtel's direct hire employees specified in 7.1 below for the time expended performing the Services, commencing on the first day of performance of Services at the Phase 2 Site. Any change to a wage bulletin resulting in increased craft compensation requires Company prior to approval which will not be unreasonably withheld.

Company will reimburse the actual cost paid to direct hire Field Craft Labor by Bechtel for:

- a) Any and all taxes, contributions or assessments for unemployment insurance, old age benefits and all other payments required by law which are measured by or based upon wages (including contributions or assessments for Worker's Compensation and premiums for Worker's Compensation Insurance), and

- b) Reimbursement for transportation, subsistence, health and welfare, pension, vacation, holiday, training and other funds which Bechtel is required to pay in accordance with government regulations or either of the following as applicable to the agreement between Bechtel and construction craft labor: (1) union contracts or agreements, or (2) Bechtel's published benefit programs.

In the event Bechtel undertakes work which requires payment for overtime, such costs will be reimbursed only with prior approval of Company. Payment to Bechtel's employees for overtime shall be in accordance with Bechtel's written policy.

7.1. Field craft labor is as listed below:

- a) General Foremen
- b) Foremen
- c) Equipment Operators
- d) Journeymen, Apprentices, Helpers & Laborers
- e) Warehousepersons & Toolpersons
- f) Truck Drivers
- g) Watchmen, Guards and Janitors
- h) Surveyors, Rodmen and Chainmen

7.2. Company will reimburse Bechtel the actual cost of welder qualification testing, as approved by Company, excluding costs of small tools and supplies.

7.3. Company will reimburse Bechtel the actual cost of per diems, housing, uplifts, bonus and incentives (if any).

## **8. CONSTRUCTION EQUIPMENT**

- 8.1. Company will reimburse Bechtel a fixed mobilization/demobilization cost per load or piece of equipment, whichever is most economical, as approved by Company.
- 8.2. Company will reimburse Bechtel the cost of unloading and assembling construction equipment and small tools when received at the Phase 2 Site, and of loading upon completion of the Services.
- 8.3. Company will reimburse Bechtel the cost of construction equipment, determined in accordance with BEO construction equipment rates table (which rates include the cost of physical damage insurance) to be approved by Company, for providing Bechtel-owned construction equipment.
- 8.4. Company will reimburse Bechtel the cost of providing third party-owned rental construction equipment as approved by Company at net invoiced cost to Bechtel, including physical damage insurance for such equipment plus markup for processing and monitoring.

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- 8.5. Company will reimburse Bechtel the cost of Bechtel-owned and third party-owned construction equipment maintenance parts and supplies for minor repairs and servicing which can be accomplished at the Phase 2 Site by the regularly assigned maintenance crew.

**9. SMALL TOOLS AND SUPPLIES**

Company will compensate Bechtel at a flat rate which is to be applied to all direct hire field craft jobhours designated in 7.1 above for small tools and supplies which are required for the proper performance of the Services. Small tools are defined as items normally costing less than One Thousand US Dollars (US\$1,000) and are used by Bechtel craftsmen. Consumable supplies are defined as those supplies (including welding rods) consumed during the performance of the Services which are not directly incorporated into the Phase 2 Facility (either temporarily or permanently). A copy of the small tools and supplies list has been provided to Company.

**10. MISCELLANEOUS**

- 10.1. Company will reimburse Bechtel the cost of all labor associated with the maintenance and repair of construction equipment owned by Bechtel or third parties, except that labor required for daily servicing and minor repairs by the regularly assigned operating crew.
- 10.2. Unless otherwise stated herein, the term "cost" as used herein means the actual, net, out-of-pocket cost to Bechtel of the item or service.
- 10.3. Bechtel shall also provide Company with copies of all Bechtel personnel policies referenced herein, including those with respect to travel, relocation, temporary assignment, housing and living expenses, per diems, uplifts, and any other policies regarding personnel compensation and expenses referenced herein. The timely provision of such information pursuant to Company's request is a condition precedent to any obligation of Company to pay any amount to Bechtel.

**ATTACHMENT D**

**FIXED FEE**

Attachment D

D-1

EPCM Agreement

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**1. FIXED FEE**

As part of Bechtel's compensation for performance of the Services, Company will pay Bechtel a fixed fee ("Fixed Fee") of Eighteen Million Five Hundred Thousand U. S. Dollars (U.S.\$ 18,500,000). The Fixed Fee is designed to compensate Bechtel for its expected profit on the Phase 2 Project.

**2. FIXED FEE ADJUSTMENT**

The Fixed Fee is not to be adjusted except in accordance with Article 7 CHANGES. Any such adjustments to the Fixed Fee will be added to the remaining balance of the Fixed Fee at the time the change is approved.

**3. FIXED FEE PAYMENT**

The first payment of the Fixed Fee will be invoiced upon signing of the Agreement and will be five percent (5%) of the Fixed Fee.

Within thirty (30) days after Bechtel's receipt of Notice to Proceed from Company, Bechtel shall provide to Company, for Company's review and approval, a cash flow curve. Once approved by Company, such cash flow curve will set the percentage of the Fixed Fee that will be paid by Company to Bechtel each month.

The monthly Fixed Fee amount will be included in the Concurrent Funding Request. Fixed Fee payments shall be invoiced by Bechtel and payable by Company in accordance with the provisions of Article 8 MANNER AND TIMES OF PAYMENT.

Notwithstanding the foregoing, the final five percent (5%) of the Fixed Fee, as may be adjusted according to the terms of this Agreement, shall not be payable to Bechtel until the Phase 2 Facility has achieved Final Acceptance.

**ATTACHMENT E**

**CHANGE ORDER FORMS**

Change Orders and Change Order Requests executed pursuant to the Agreement shall be done so on forms substantially similar to those set forth in this Attachment E.

E-1

Attachment E  
EPCM Agreement

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**FORM E-1**

**CHANGE ORDER REQUEST FORM**  
**BECHTELS CHANGE ORDER REQUEST OR RESPONSE TO A CHANGE ORDER PROPOSED BY COMPANY**

(For use by Bechtel pursuant to Section 7.4 of the Agreement, when Bechtel requests a proposed Change Order)

**PROJECT NAME:** Sabine Pass LNG Phase 2 Receiving,  
Storage and Regasification Terminal Expansion.

**CHANGE ORDER REQUEST NUMBER:** \_\_\_\_\_

**COMPANY:** Sabine Pass LNG, L.P.

**DATE OF CHANGE ORDER REQUEST:** \_\_\_\_\_

**CONTRACTOR:** Bechtel Corporation

**DATE OF AGREEMENT:** July 21, 2006

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**Bechtel proposes the following change(s) to the Services:** *(attach additional documentation, if necessary)*

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**Detailed Reasons for Proposed Change(s)** *(provide detailed reasons for the proposed change, and attach all supporting documentation required under the Agreement)*

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**Estimated Cost of the proposed Change in Services subject to increase in Fixed Fee** *(attach additional documentation, if necessary)*

Change in Value of Services Previously Implemented by Change Order Request	\$ _____
Change in Value of Services Implemented by This Change Order Request	\$ _____
Cumulative Value of Services Implemented by all Change Order Requests To Date	\$ _____ *

\* Subject to an increase in Fixed Fee on the cumulative value of Change Order Requests in excess of \$5 million each, in the aggregate.

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This request for Change Order is signed by Bechtel's duly authorized representative.

\_\_\_\_\_  
Bechtel

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date of Signing



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**FORM E-2**

**CHANGE ORDER FORM**

(for use when the Parties increase the Fixed Fee and execute the Change Order pursuant to Article 7)

**PROJECT NAME:** Sabine Pass LNG Phase 2 Receiving, Storage and  
Regasification Terminal Expansion

**COMPANY:** Sabine Pass LNG, L.P.

**CONTRACTOR:** Bechtel Corporation

**DATE OF AGREEMENT:** July 21, 2006

**CHANGE ORDER NUMBER:** \_\_\_\_\_

**DATE OF CHANGE ORDER:** \_\_\_\_\_

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**The Agreement between the Parties listed above is changed as follows:***(attach additional documentation if necessary)*

Increase in the Fixed Fee associated with the implementation of the following Change Order Requests

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**Adjustment to Bechtel's Fixed Fee**

The original Fixed Fee was \$ \_\_\_\_\_

Change in Fixed Fee by previously authorized Change Orders \$ \_\_\_\_\_

The Fixed Fee prior to this Change Order was \$ \_\_\_\_\_

The Fixed Fee will be (increased) (decreased) by this Change Order in the amount of \$ \_\_\_\_\_

The new Fixed Fee including this Change Order will be \$ \_\_\_\_\_

This Change Order **[shall]** **[shall not]** constitute a full and final settlement and accord and satisfaction of all effects of the change as described in this Change Order upon the Fixed Fee and shall be deemed to compensate Bechtel fully for such change.

Upon execution of this Change Order by Company and Bechtel, the above-referenced change shall become a valid and binding part of the original Agreement without exception or qualification, unless noted in this Change Order. Except as modified by this and any previously issued Change Orders, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives.

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Company

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Name

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Title

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Date of Signing

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Bechtel

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Name

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Title

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Date of Signing

**Attachment F**  
**Insurance Requirements**

1. Bechtel's Insurance.

A. Types and Amounts of Insurance. Bechtel shall at Company's sole cost and expense procure and maintain in full force and effect at all times specified in Section 1.B the following insurances on an occurrence basis for coverages at not less than the following limits of liability:

1. Workers' Compensation and Employer's Liability Insurance. Bechtel shall comply with Applicable Law with respect to workers' compensation requirements and other similar requirements where the Services are performed and shall procure and maintain workers' compensation and employer's liability policies in accordance with Applicable Law and the requirements of this Agreement. These policies shall include coverage for all states and other applicable jurisdictions, voluntary compensation coverage, alternate employer endorsement and occupational disease. If the Services are to be performed on or near navigable waters, the policies shall include coverage for United States Longshoremen's and Harbor Workers' Act, Death on the High Seas Act, the Jones Act, the Outer Continental Shelf Lands Act, and other Applicable Law regarding maritime law. A maritime employer's liability policy may be used to satisfy applicable parts of this requirement with respect to Services performed on or near navigable waters. If Bechtel is not required by Applicable Law to carry workers' compensation insurance, then Bechtel shall provide the types and amounts of insurance which are mutually agreeable to the Parties.

Minimum limits:

Workers' Compensation: Statutory

Employer's Liability: U.S.\$1,000,000 each accident, U.S.\$1,000,000 disease each employee and U.S.\$1,000,000 disease policy limit

2. Commercial General Liability Insurance. This policy shall provide coverage against claims for bodily injury (including bodily injury and death), property damage (including loss of use) and personal injury, and shall include contractual liability (such coverage not to be written on a limited basis) insuring the indemnity obligations assumed by Bechtel under the Agreement, products and completed operations coverage (for a minimum of five (5) years after Final Acceptance), premises and operations coverage, broad form property damage coverage, independent contractors, actions over indemnity coverage, sudden and accidental pollution liability coverage including clean up on or off the Site, non-owned watercraft liability and deletion of any explosion, collapse, or underground exclusions. The policy shall cover the Phase 1 Project and Phase 2 Project and shall be endorsed to provide coverage wherever the Services are performed. The aggregate limits shall apply separately to each annual policy period, except for the products and completed operations coverage, which shall be an aggregate for the combined Phase 1 Project and Phase 2 Project. This coverage will be subject to a maximum deductible of U.S.\$25,000.

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Minimum limits: U.S.\$1,000,000 combined single limit each occurrence  
U.S.\$2,000,000 general aggregate, with such limits dedicated to the Phase 1 Project and Phase 2 Project  
U.S.\$2,000,000 products and completed operations aggregate, with such limits dedicated to the Phase 1 Project and Phase 2 Project

3. Commercial Automobile Insurance. This policy shall cover the Phase 1 Project and Phase 2 Project and shall include coverage for all owned, hired, rented, and non-owned automobiles and equipment. This coverage will be subject to a maximum deductible of U.S.\$25,000.

Minimum limit: U.S.\$1,000,000 combined single limit each accident

4. Umbrella or Excess Liability Insurance. This policy shall be written on a “following form” basis and shall provide coverage in excess of the coverages required to be provided by Bechtel for employer’s liability insurance, commercial general liability insurance, maritime employer’s liability insurance, aircraft liability insurance and commercial automobile liability insurance. The aggregate limit shall apply separately to each annual policy period, except for the products and completed operations coverage, which shall be an aggregate for the Phase 2 Project of at least U.S.\$100,000,000.

Minimum limits: U.S.\$200,000,000 combined single limit each occurrence, with the first U.S.\$100,000,000 to be shared between the Phase 1 Project and the Phase 2 Project, and with the second U.S.\$100,000,000 to be dedicated to Phase 2 Project

5. Aircraft Liability Insurance. If applicable, this policy shall provide coverage for bodily injury and property damage and shall cover aircraft that is owned, leased, rented or chartered by Bechtel. This policy shall cover the Phase 1 Project and the Phase 2 Project, as applicable. The policy shall include coverage for passengers and crew, cover all owned and non-owned aircraft, and be endorsed to provide a voluntary settlement.

Minimum limit: U.S.\$10,000,000 per occurrence

6. Hull and Machinery Insurance. This policy shall be provided by Bechtel if applicable and shall cover any watercraft that is owned, leased, rented or chartered by Bechtel. This policy shall cover the Phase 1 Project and the Phase 2 Project. If not provided for in the protection and indemnity policy in Section 1A.7 of this Attachment F,

this policy shall include collision liability and tower's liability with sister-ship clause un-amended. All "as owner" and "other than owner" clauses shall be deleted, and navigational limitations shall be adequate for Bechtel to perform the specified Services.

Hull: Fair Market Value of each vessel

7. Protection and Indemnity Insurance (P&I). This policy shall be provided by Bechtel if applicable and shall cover any watercraft that is owned, leased, rented or chartered by Bechtel. This policy shall cover the Phase 1 Project and the Phase 2 Project, as applicable. The coverage provided shall include marine contractual liability, tankerman's liability, pollution liability, removal of wreck and/or debris, and if not provided for in the hull and machinery policy, collision liability and tower's liability with sister-ship clause un-amended. All "as owner" and "other than owner" clauses shall be deleted, and navigational limitations shall be adequate for Bechtel to perform the specified Services.

If pollution liability coverage is not provided by the P&I underwriter, pollution liability insurance shall be separately provided that will cover bodily injury, property damage, including cleanup costs and defense costs imposed under Applicable Law (including the Oil Pollution Act of 1990 (OPA) and the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)), resulting from pollution conditions of contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water.

Minimum limits: Protection and indemnity coverage provided with a minimum limit of U.S.\$100,000,000. (This limit may be satisfied with a minimum underlying limit of U.S.\$1,000,000 and the remaining U.S.\$99,000,000 provided through excess P&I coverage which "follows form" with the underlying policy.)

Pollution liability coverage provided with a minimum limit of U.S.\$100,000,000.

8. Bechtel's Construction Equipment Floater. Bechtel shall maintain equipment insurance covering all construction equipment, tools, machinery and items (whether owned, rented, or borrowed) of Bechtel that will not become part of the Phase 2 Facility. It is understood that this coverage shall not be included under the builder's risk policy, and shall cover the Phase 2 Project.

9. Builder's Risk Insurance. Property damage insurance on an "all risk" basis insuring Bechtel, Company, Company Contractors and its subcontractors, and Lender, as their interests may appear, including coverage against loss or damage from the perils of earth movement (including earthquake, landslide, subsidence and volcanic eruption), flood, windstorm, startup and testing, strike, riot, civil commotion and malicious damage but excluding terrorism. If economically viable, the builder's risk policy provided under the

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Phase 1 Project shall be modified so that the policy covers the full replacement cost of both the Phase 1 Facility and the Phase 2 Facility.

- (a) Property Covered: The insurance policy shall provide coverage for (i) the buildings, structures, boilers, machinery, equipment, facilities, fixtures, supplies, fuel, and other properties constituting a part of the Phase 2 Facility, (ii) free issue items used in connection with the Phase 2 Facility, (iii) the inventory of spare parts to be included in the Phase 2 Facility, (iv) property of others in the care, custody or control of Bechtel or Company in connection with the Phase 2 Project, (v) all preliminary works, temporary works and interconnection works, (vi) foundations and other property below the surface of the ground, and (vii) electronic equipment and media.
- (b) Additional Coverages: The insurance policy shall insure (i) the cost of preventive measures to reduce or prevent a loss (sue & labor) in an amount not less than U.S.\$10,000,000, (ii) operational and performance testing for a period not less than ninety (90) Days, (iii) inland transit with sub-limits sufficient to insure the largest single shipment to or from the Site from anywhere within the United States of America, (iv) expediting expenses (defined as extraordinary expenses incurred after an insured loss to make temporary repairs and expedite the permanent repair of the damaged property in excess of the delayed startup coverage even if such expenses do not reduce the delayed startup loss) in an amount not less than U.S.\$15,000,000, (v) off-Site storage with sub-limits sufficient to insure the full replacement value of any property or Equipment not stored on the Site, (vi) the removal of debris with a sub-limit not less than twenty-five percent (25%) of the loss amount, but subject to a maximum of U.S.\$10,000,000 and (vii) pollution clean up and removal for a sub-limit not less than U.S.\$1,000,000.
- (c) Special Clauses: The insurance policy shall include (i) a seventy-two (72) hour flood/storm/earthquake clause, (ii) unintentional errors and omissions clause, (iii) a 50/50 clause, (iv) a requirement that the insurer pay losses within thirty (30) Days after receipt of an acceptable proof or loss or partial proof of loss, (v) an other insurance clause making this insurance primary over any other insurance, (vi) a clause stating that the policy shall not be subject to cancellation by the insurer except for non-payment of premium and (vii) an extension clause allowing the policy period to be extended up to six (6) months with respect to physical loss or damage without modification to the terms and conditions of the policy and a pre-agreed upon premium.
- (d) Prohibited Exclusions: The insurance policy shall not contain any (i) coinsurance provisions, (ii) exclusion for loss or damage resulting from freezing and mechanical breakdown, (iii) exclusion for loss or damage covered under any guarantee or warranty arising out of an insured peril, (iv) exclusion for resultant damage caused by ordinary wear and tear, gradual deterioration, normal subsidence, settling, cracking, expansion or contraction

and faulty workmanship, design or materials no more restrictive than the LEG 3/96 or DE-5 exclusion.

- (e) Sum Insured: The insurance policy shall (i) be on a completed value form, with no periodic reporting requirements, (ii) insure one hundred percent (100%) of the Facility's insurable values, (iii) value losses at replacement cost, without deduction for physical depreciation or obsolescence including custom duties, taxes and fees and (iv) insure loss or damage from earth movement without a sub-limit, (v) insure property loss or damage from flood and windstorm with a sub-limit not less than \$400,000,000 for the combined Phase 1 Facility and Phase 2 Facility, and (vi) insure loss or damage from strikes, riots, and civil commotion with a sub-limit not less than \$100,000,000 for the combined Phase 1 Facility and the Phase 2 Facility.
- (f) Deductible: The insurance policy shall have no deductible greater than U.S.\$500,000 per occurrence; *provided, however, (i) for flood and named windstorm, the deductible shall not be greater than two percent (2%) of values at risk, subject to a minimum deductible of U.S.\$1,000,000 and a maximum deductible of U.S.\$5,000,000 for flood and windstorm and (ii) for wet works, the deductible shall not be greater than U.S.\$1,000,000.*

10. Not Used

11. Marine Cargo Insurance. Cargo insurance insuring Bechtel, Company and Lender, as their interests may appear, on a "warehouse to warehouse" basis including land, air and marine transit insuring "all risks" of loss or damage on a C.I.F. basis plus ten percent (10%) from the time the goods are in the process of being loaded for transit until they are finally delivered to the Site including shipment deviation, delay, forced discharge, re-shipment and transshipment. Such insurance shall cover both the Phase 1 Project and the Phase 2 Project and shall (a) include coverage for war, strikes, theft, pilferage, non-delivery, charges of general average sacrifice or contribution, salvage expenses, temporary storage in route, consolidation, repackaging, refused and returned shipments, debris removal, (b) contain a replacement by air extension clause, a 50/50 clause, a difference in conditions for C.I.F. shipments, an errors and omissions clause, an import duty clause and a non-vitiation clause (but subject to a paramount warranty for surveys of critical items), (c) contain no exclusion for inadequate packing, (d) provide coverage for sue and labor in an amount not less than \$1,000,000 and (e) insure for the replacement value of the largest single shipment on a C.I.F. basis plus ten percent (10%).

12. Not Used.

13. Not Used.

14. Marine General Liability Insurance. Marine general liability insurance against claims for bodily injury, property damage, marine contractual liability, tankerman's liability, pollution liability, charter's legal liability, removal of wreck and/or debris, collision

liability and tower's liability with the sister-ship clause un-amended arising out of any vessel or barge owned, rented or chartered by the Company, Bechtel, or any Bechtel Subcontractors with a U.S. \$100,000,000 limit per occurrence to be shared between the Phase 1 Project and the Phase 2 Project provided that policy aggregates, if any, shall apply separately to claims occurring with respect to the combined Phase 1 Project and Phase 2 Project. A maximum deductible or self-insured retention of \$25,000 per occurrence shall be allowed.

15. Pollution Liability Insurance. Pollution legal liability insurance in an amount not less than U.S. \$25,000,000 per occurrence for the combined Phase 1 Facility and Phase 2 Facility insuring for (a) cleanup on or off the Site for conditions or releases of pollutants and (b) third party liability (including bodily injury, property damage, natural resource damages, third party property loss of use/revenue, and cleanup) due to conditions or releases of pollutants. A maximum deductible or self-insured retention of \$250,000 per occurrence shall be allowed.

B. Time for Procuring and Maintaining Insurance. Bechtel shall procure as soon as practical but no later than Notice to Proceed the coverages specified in Sections 1A.1, 1A.2, 1A.3, 1A.4, 1A.8, 1A.9 (the builder's risk policy having a minimum initial limit of \$10,000,000), 1A.11, 1A.14 and 1A.15. Bechtel shall procure the full limits under the builder's risk policy under Section 1A.9, including the full limits specified under Section 1A.9 for property loss or damage from flood and windstorm, no later than ninety (90) days after Notice to Proceed. Bechtel shall obtain the coverages under Sections 1A.5, 1A.6 and 1A.7 as soon as practical if such policies are applicable to the performance of the Services. Bechtel shall maintain all policies under this Attachment F in full force and effect at all times through Final Acceptance, except as follows: (i) for the builder's risk policy under Section 1A.9, the builder's risk coverage for each Phase 2 Tank shall cease upon the Provisional Acceptance of each such Phase 2 Tank, and the builder's risk coverage for the Balance of Plant for the Phase 2 Project shall cease upon Provisional Acceptance of the Balance of Plant for the Phase 2 Project; (ii) for the products and completed operations coverage under Section 1A.2 and 1A.4, such coverage shall be maintained until five (5) years after Final Acceptance, and (iii) for flood and windstorm coverage under Section 1A.9, such coverage shall be maintained until at least December 20, 2008.

C. Not Used.

D. Insurance Companies. All insurance required to be obtained by Bechtel pursuant to this Agreement shall be from an insurer or insurers permitted to conduct business as required by Applicable Law and shall be rated with either an "A-: IX" or better by Best's Insurance Guide Ratings or "A-" or better by Standard and Poor's.

E. Subcontractor's and Sub-subcontractor's Insurance Requirements. Bechtel shall ensure that each Bechtel Subcontractor shall either be covered by the insurance provided by Bechtel pursuant to this Agreement, or by insurance procured by a Bechtel Subcontractor. Should a Bechtel Subcontractor be responsible for procuring its own insurance coverage, Bechtel shall ensure that each such Bechtel Subcontractor shall procure and maintain insurance to the full extent required of Bechtel under this Agreement and shall be required to comply with all of the

requirements imposed on Bechtel with respect to such Bechtel provided insurance on the same terms as Bechtel, except that Bechtel shall have the sole responsibility for determining the limits of coverage required to be obtained by such Bechtel Subcontractors in accordance with reasonably prudent business practices. Failure of Bechtel Subcontractors to procure and maintain such insurance coverage shall not relieve Bechtel of its responsibilities under the Agreement.

F. Named and Additional Insured.

1. The following insurance policies provided by Bechtel shall include Company Group as Additional Insureds: employer's liability, commercial automobile, aircraft liability, hull and machinery, and protection and indemnity insurance.
2. The following insurance policies provided by Bechtel shall include Company as Named Insureds: commercial general liability, umbrella or excess liability, builder's risk, , marine cargo, , pollution liability, and marine general liability insurance.

G. Waiver of Subrogation and Waiver of Claims.

1. All policies of insurance provided by Bechtel or any of its Subcontractors pursuant to this Agreement shall include clauses providing that each underwriter shall waive its rights of recovery, under subrogation or otherwise, against Company.
2. Bechtel waives any and all claims, damages, losses, costs, and expenses against Company Group to the extent such claims, damages, losses, costs and expenses have already been paid to Bechtel by the insurance procured by Bechtel pursuant to the Agreement.

H. Bechtel's Insurance is Primary. The insurance policies of Bechtel and its Subcontractors shall state that such coverage is primary and non-contributory to any other insurance or self-insurance available to or provided by the Company

I. Severability. All policies (other than in respect to worker's compensation insurance) shall insure the interests of the Company Group regardless of any breach or violation by Bechtel or any other Party of warranties, declarations or conditions contained in such policies, any action or inaction of Company or others, or any foreclosure relating to the Phase 2 Project or any change in ownership of all or any portion of the Phase 2 Project.

J. Copy of Policy. At Company's request, Bechtel shall promptly provide Company certified copies of each of the insurance policies of Bechtel, or if the policies have not yet been received by Bechtel, then with binders of insurance, duly executed by the insurance agent, broker or underwriter fully describing the insurance coverages effected.

K. Limitation of Liability. Types and limits of insurance shall not in any way limit or expand any of Bechtel's obligations, responsibilities or liabilities under this Agreement.



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L. Jurisdiction. All insurance policies shall include coverage for jurisdiction within the United States of America or other applicable jurisdiction.

M. Miscellaneous. Bechtel and its Subcontractors and shall do nothing to void or make voidable any of the insurance policies purchased and maintained by Bechtel or its Subcontractors hereunder. Bechtel shall promptly give Company and Lender notice in writing of the occurrence of any casualty, claim, event, circumstance, or occurrence that may give rise to a claim under an insurance policy hereunder and arising out of or relating to the performance of the Services or any work performed by Company Contractors. In addition, Bechtel shall ensure that Company is kept fully informed of any subsequent action and developments concerning the same, and assist in the investigation of any such casualty, claim, event, circumstance or occurrence.

N. Instructions for Certificate of Insurance. Bechtel's certificate of insurance form, completed by Bechtel's insurance agent, broker or underwriter, shall reflect all of the insurance required by Bechtel, the recognition of additional insured status, waivers of subrogation, and primary/non-contributory insurance requirements contained in this Attachment F and elsewhere in the Agreement.

O. Certificate of Insurance Requirements. Prior to the commencement of any Services under this Agreement and in accordance with Section 1B of this Attachment F, Bechtel shall deliver to Company certificates of insurance reflecting all of the insurance required of Bechtel under this Agreement. All certificates of insurance and associated notices and correspondence concerning such insurance shall be addressed to the contact information listed in the Agreement for notices, plus the following: Sabine Pass LNG, L.P., 717 Texas Avenue, Suite 3100, Houston, Texas 77002, Facsimile: (713) 659-5459, Attn: Graham McArthur

In addition, each such certificate of insurance for employer's liability, commercial liability, aircraft, hull and machinery, and protection and indemnity insurance shall include the following language:

"Additional Insured: Sabine Pass LNG, L.P., Lender and each of their respective subsidiaries, affiliates, partners, co-venturers, agents, officers, directors and employees named as Additional Insureds on employer's liability, commercial automobile liability, aircraft, hull and machinery, and protection and indemnity insurance. The coverage afforded the Additional Insured under these policies shall be primary insurance. If the Additional Insured has other insurance which is applicable to a loss or claim, such other insurance shall be on an excess or contingent basis."

"Waiver of Subrogation in favor of Additional Insureds as respects all policies required hereunder."

In addition, each such certificate of insurance for commercial general liability, umbrella excess liability, builder's risk, marine cargo, , marine general liability insurance, and pollution liability insurance shall include the following language:

"Named Insured: Sabine Pass LNG, L.P., Lender and each of their respective subsidiaries, affiliates, partners, co-venturers, agents, officers, directors and employees as Named Insureds on commercial general liability, umbrella excess liability, builder's risk, marine cargo,, marine general liability insurance, and pollution liability insurance. The coverage afforded the Named Insured under these policies shall be primary insurance. If the Named Insured has other insurance which is applicable to a loss or claim, such other insurance shall be on an excess or contingent basis."

"Waiver of Subrogation in favor of Named Insureds as respects all policies required hereunder."

P. Acceptable Policy Terms and Conditions: All policies of insurance required to be maintained by Bechtel shall be written on reasonable and customary policy forms with conditions and exclusions consistent with insurance written for facilities of similar size and scope as the Phase 2 Facility.

Q. Deductibles. Bechtel and Company shall bear the cost of deductibles under the insurance provided by Bechtel pursuant to this Attachment F in accordance with the allocation of risk found elsewhere in this Agreement.

2. Policy Cancellation and Change. All policies of insurance required to be maintained pursuant to this Attachment F shall be endorsed so that if at any time they are canceled, or their coverage is reduced (by any party including the insured) so as to affect the interests of Company or Lender, such cancellation or reduction shall not be effective as to Company or Lender for sixty (60) days after receipt by Company and Lender of written notice from such insurer of such cancellation or reduction, *provided that* (i) cancellation or reduction for marine cargo war risk shall not be effective for seven (7) days after receipt by Company and Lender of written notice from such insurer of such cancellation or reduction and (ii) for non-payment of premium, cancellation or reduction shall not be effective for ten (10) days after receipt by Company and Lender of written notice from such insurer of such cancellation or reduction.

3. Reports. Bechtel will advise Company and Lender in writing promptly of (1) any material changes in the coverage or limits provided under any policy required by this Attachment F and (2) any default in the payment of any premium and of any other act or omission on the part of Bechtel which may invalidate or render unenforceable, in whole or in part, any insurance being maintained by the Bechtel pursuant to this Attachment F.

4. Control of Loss. If commercially feasible, all policies of insurance required to be maintained pursuant to this Attachment F, wherein more than one insurer provides the coverage on any single policy, shall have a clause (or a separate agreement among the insurers) wherein all insurers have agreed that the lead insurers shall have full settlement authority on behalf of the other insurers.

5. Loss Survey. All policies of insurance required to be maintained pursuant to this Attachment F, wherein more than one insurer provides the coverage on any single policy, shall have

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a clause (or a separate agreement among the insurers) wherein all insurers have agreed upon the employment of a single firm to survey and investigate all losses on behalf of the insurers.

6. Miscellaneous Policy Provisions. If commercially feasible, all insurance policies providing builder's risk or marine cargo (i) shall not include any annual or term aggregate limits of liability except for the perils of flood, earth movement and windstorm, (ii) shall have any aggregate limits of liability apply separately with respect to the Phase 2 Project, (iii) shall have aggregate limits for flood, earth movement and windstorm that apply annually and (iv) shall not include a clause requiring the payment of additional premium to reinstate the limits after loss except for insurance covering the perils of flood, earth movement and windstorm.

7. Lender Requirements. Bechtel agrees to cooperate with Company and as to any changes in or additions to the foregoing insurance provisions made necessary by requirements imposed by Lender (including additional insured status, notice of cancellation, certificates of insurance), *provided that* any resulting costs of increased coverage shall be reimbursable by Company and provided further that no such requirements shall materially adversely affect Bechtel's risk exposure. All policies of insurance required to be maintained pursuant to this Attachment F shall contain terms and conditions reasonably acceptable to Company after consultation with Lender.

8. Note Regarding the Phase 1 Project. For avoidance of doubt, (i) all costs for any insurance specified in this Attachment F as covering the Phase 1 Project is handled under the Phase 1 EPC Agreement and not under this Agreement; and (ii) this Agreement shall not be interpreted to modify the insurance requirements under the Phase 1 EPC Agreement for the Phase 1 Facility.

**ATTACHMENT H**  
**BECHTEL HOLIDAYS**

Attachment H  
EPCM Agreement

The following days are approved as holidays in the U.S. for Bechtel employees:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving Day	Fourth Thursday in November
Floating Holiday	Fourth Friday in November
Christmas Day	December 25

When an approved holiday falls on Saturday, the preceding Friday will be recognized as the holiday. When an approved holiday falls on Sunday, the following Monday will be recognized as the holiday.

**ATTACHMENT I**

**LIEN AND CLAIM WAIVER FORMS**

The lien waivers and lien and claim waivers executed pursuant to the Agreement shall be done so on forms substantially similar to those set forth in this Attachment I.

**SCHEDULE I-1**

**BECHTEL'S INTERIM CONDITIONAL LIEN WAIVER**  
(To be executed by Bechtel with each Concurrent Funding Request)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Bechtel Corporation ("Bechtel"), has been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Company"), for the engineering, procurement, construction, commissioning, start-up and testing of improvements known as the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion (the "Facility"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$\_\_\_\_\_ (amount in Concurrent Funding Request submitted with this Bechtel's Interim Conditional Lien Waiver), Bechtel waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Facility and the Property that Bechtel has or may have arising out of the performance or provision of the work, materials, equipment, services or labor by or on behalf of Bechtel (including, without limitation, any Bechtel Subcontractor) in connection with the Facility through the date of \_\_\_\_\_, 20\_\_ (date of the Concurrent Funding Request submitted with this Bechtel's Interim Conditional Lien Waiver) and reserving those rights, privileges and liens, if any, that Bechtel might have in respect of any amounts withheld by Company under the terms of the Agreement from payment on account of work, materials, equipment, services and/or labor furnished by or on behalf of Bechtel to or on account of Company for the Facility. Other exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, Bechtel shall be deemed not to have reserved any claim.)

Bechtel expressly represents and warrants that all employees, laborers, materialmen, and Bechtel Subcontractors employed by Bechtel have been paid in accordance with their respective contracts or subcontracts for all work, materials, equipment, services, labor and any other items performed or provided in connection with the Facility through \_\_\_\_\_, 20\_\_ (date of Bechtel's last prior Concurrent Funding Request). Exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, all such payments have been made )

This Bechtel's Interim Conditional Lien Waiver is freely and voluntarily given and Bechtel acknowledges and represents that it has fully reviewed the terms and conditions of this Bechtel's Interim Conditional Lien Waiver, that it is fully informed with respect to the legal effect of this Bechtel's Interim Conditional Lien Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Bechtel's Interim Conditional Lien Waiver in return for the payment recited above.

This Bechtel's Interim Conditional Lien Waiver has been executed by its duly authorized representative.

**FOR BECHTEL:**

Applicable to Concurrent Funding Request(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE I-2**

**BECHTEL SUBCONTRACTOR'S INTERIM CONDITIONAL LIEN WAIVER**

(To be executed by Bechtel Subcontractors with each Concurrent Funding Request)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Bechtel Subcontractor") who has, under an agreement with Bechtel Corporation ("Bechtel"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion ("Facility"), which is located in Cameron Parish, State of Louisiana and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$\_\_\_\_\_ (amount in Concurrent Funding Request submitted with this Bechtel Subcontractor's Interim Conditional Lien Waiver), Bechtel Subcontractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Facility and the Property that Bechtel Subcontractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Bechtel Subcontractor (including, without limitation, any sub-subcontractor) in connection with the Facility through the date of \_\_\_\_\_, 20\_\_ (date of the Concurrent Funding Request submitted with this Bechtel Subcontractor's Interim Conditional Lien Waiver) and reserving those rights, privileges and liens, if any, that Bechtel Subcontractor might have in respect of any amounts withheld by Bechtel from payment on account of work, materials, equipment, services and/or labor furnished by or on behalf of Bechtel Subcontractor to or on account of Bechtel for the Facility. Other exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, Bechtel Subcontractor shall be deemed not to have reserved any claim.)

Bechtel Subcontractor expressly represents and warrants that all employees, laborers, materialmen, sub-subcontractors and subconsultants employed by Bechtel Subcontractor in connection with the Facility have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Bechtel Subcontractor's last prior invoice). Exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, all such payments have been made)

This Bechtel Subcontractor's Interim Conditional Lien Waiver is freely and voluntarily given and Bechtel Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Bechtel Subcontractor's Interim Conditional Lien Waiver, that it is fully informed with respect to the legal effect of this Bechtel Subcontractor's Interim Conditional Lien Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Bechtel Subcontractor's Interim Conditional Lien Waiver in return for the payment recited above.

This Bechtel Subcontractor's Interim Conditional Lien Waiver has been executed by its duly authorized representative.

**FOR BECHTEL SUBCONTRACTOR:**

Applicable to Concurrent Funding Request(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**SCHEDULE I-3**

**BECHTEL'S FINAL CONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Bechtel with the invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Bechtel Corporation ("Bechtel"), has been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Company"), for the engineering, procurement, construction, commissioning, start-up and testing of improvements known as the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion ("Facility"), which is located in Cameron Parish, State of Louisiana and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(the "Property").

Upon receipt of the sum of U.S.\$\_\_\_\_\_ (amount in invoice for final payment submitted with this Bechtel's Final Conditional Lien and Claim Waiver), Bechtel waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Facility and the Property and all claims, demands, actions, causes of actions or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise that Bechtel has or may have had against Company arising out of the Agreement or the Facility, whether or not known to Bechtel at the time of the execution of this Bechtel's Final Conditional Lien and Claim Waiver, except for the following disputed claims for extra work in the amount of U.S.\$\_\_\_\_\_:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, Bechtel shall be deemed not to have reserved any claim.)

Except for work and obligations that survive the termination or expiration of the Agreement, including, without limitation, Warranties and correction of Defective Work, Bechtel represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the Agreement or the Facility have been fully satisfied.

This Bechtel's Final Conditional Lien and Claim Waiver is freely and voluntarily given, and Bechtel acknowledges and represents that it has fully reviewed the terms and conditions of this Bechtel's Final Conditional Lien and Claim Waiver, that it is fully informed with respect to the legal effect of this Bechtel's Final Conditional Lien and Claim Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Bechtel's Final Conditional Lien and Claim Waiver in return for the payment recited above. Bechtel understands, agrees and acknowledges that, upon payment, this document waives rights and is fully enforceable to extinguish all claims of Bechtel as of the date of execution of this document by Bechtel.

This Bechtel's Final Conditional Lien and Claim Waiver has been executed by its duly authorized representative.

**FOR BECHTEL:**

Applicable to Concurrent Funding Request/final invoice No(s): ALL (If all, print "all")

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE I-4**

**BECHTEL SUBCONTRACTOR'S FINAL CONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Bechtel Subcontractors with their invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Bechtel Subcontractor"), has, under an agreement with Bechtel Corporation ("Bechtel"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion ("Facility"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_, Bechtel Subcontractor waives, relinquishes, remits and releases any and all privileges and liens or claims of privileges or liens against the Facility and the Property, and all claims, demands, actions, causes of action or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise against Sabine Pass LNG, L.P. ("Company") or Bechtel, which Bechtel Subcontractor has, may have had or may have in the future arising out of the agreement between Bechtel Subcontractor and Bechtel or the Facility, whether or not known to Bechtel Subcontractor at the time of the execution of this Bechtel Subcontractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the agreement between Bechtel Subcontractor and Bechtel, including warranties and correction of defective work, Bechtel Subcontractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the agreement between Bechtel and Bechtel Subcontractor, the Facility or sub-subcontracts have been fully satisfied.

This Bechtel Subcontractor's Final Conditional Lien and Claim Waiver is freely and voluntarily given and Bechtel Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Bechtel Subcontractor's Final Conditional Lien and Claim Waiver, that it is fully informed with respect to the legal effect of this Bechtel Subcontractor's Final Conditional Lien and Claim Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Bechtel Subcontractor's Final Conditional Lien and Claim Waiver in return for the payment recited above. Bechtel Subcontractor understands, agrees and acknowledges that, upon payment, this document waives rights and is fully enforceable to extinguish all claims of Bechtel Subcontractor as of the date of execution of this document by Bechtel Subcontractor.

This Bechtel Subcontractor's Final Conditional Lien and Claim Waiver has been executed by its duly authorized representative.

**FOR BECHTEL SUBCONTRACTOR:**

Applicable to Concurrent Funding Request/final invoice No(s). ALL (If all, print "all")

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ATTACHMENT J**

**KEY PERSONNEL**

Attachment J  
EPCM Agreement

The following individuals are designated Key Personnel. Key Personnel shall, unless agreed by Company, be devoted full time to the Services for the minimum durations specified.

Position	Name	Duration
Project Manager	Jose Montalvo	Full time through project completion
Project Engineering Manager	Sho Ota	Full time through the end of Engineering; as needed thereafter
Project Controls Manager	Don Anderson	Full time through project completion
Construction Manager	Jonathan Gaskamp	Full time through project completion
Procurement Manager	Ray Peters	Full time through final equipment delivery; as needed thereafter
Subcontract Manager	TBD	Full time through project completion

**ATTACHMENT L**

**FORM OF CONSENT AND AGREEMENT**

The Consent and Agreement executed among Bechtel, Company and Collateral Agent pursuant to the Agreement shall be in a form substantially similar to the Form of Consent and Agreement attached hereto as Attachment L.

## FORM OF CONSENT AND AGREEMENT

THIS CONSENT AND AGREEMENT (this "Consent and Agreement") dated as of [\_\_\_\_], is made and entered into by and among Bechtel Corporation, a corporation duly organized and validly existing under the laws of the State of Nevada ("Bechtel" or the "Project Party"), Sabine Pass LNG, L.P., a limited partnership duly organized and validly existing under the laws of the State of Delaware (the "Owner") and HSBC Bank U.S.A., National Association, in its capacity as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") under the Security Documents.

### WITNESSETH

WHEREAS, the Owner, the lenders under the Credit Agreement referred to below and the Collateral Agent are parties to an [Amended and Restated Credit Agreement] dated on or about the date hereof (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 Owner for the purpose of financing the cost of Phase 1 and Phase 2 of the construction and operation of the Sabine Pass Facility and related expenses;

WHEREAS, the Project Party and Owner have entered into that certain Agreement for Engineering, Procurement, Construction and Management of Construction Services of the Sabine Pass LNG Phase 2 Receiving, Storage And Regasification Terminal Expansion dated as of [Date] (as amended, restated, modified or otherwise supplemented from time to time, the "Assigned Agreement"), pursuant to which the Project Party shall engineer, procure, construct and manage the construction of the Phase 2 Facility (as defined in the Assigned Agreement); and

WHEREAS, as security for the loans made by the lenders under the Credit Agreement, the Owner has assigned, pursuant to the security documents entered into between the Owner 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 Credit 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 Government Authority, any Person succeeding to its functions and capacities.

2. Representations and Warranties. The Project Party hereby represents and warrants that:

(a) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada. The Project Party is duly qualified to do business and is in good standing in all jurisdictions where necessary in light of the business it conducts and the property it owns and intends to conduct and own and in light of the transactions contemplated by the Assigned Agreement. No filing, recording, publishing or other act that has not been made or done is necessary or desirable in connection with the existence or good standing of the Project Party or the conduct of its business.

(b) The Project Party has the full corporate power, authority and right to execute, deliver and perform its obligations hereunder and under the Assigned Agreement. The execution, delivery and performance by the Project Party of this Consent and Agreement and the Assigned Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate and shareholder action. This Consent and Agreement and the Assigned Agreement have been duly executed and delivered by the Project Party and constitute the legal, valid and binding obligations of the Project Party enforceable against the Project Party in accordance with their respective terms, except as the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) The execution, delivery and performance by the Project Party of this Consent and Agreement and the Assigned Agreement do not and will not (i) require any consent or approval of the board of directors of the Project Party or any shareholder of the Project Party or of any other Person which has not been obtained and each such consent or approval that has been obtained is in full force and effect, (ii) violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award having applicability to the Project Party or any provision of the certificate of incorporation or by-laws of the Project Party, (iii) conflict with, result in a breach of or constitute a default under any provision of the certificate of incorporation, by-laws or other organic documents or any resolution of the board of directors (or similar body) of the Project Party or any indenture or loan or credit agreement or any other agreement, lease or instrument to which the Project Party is a party or by which the Project Party or its properties and assets are bound or affected or (iv) result in, or require the creation or imposition of, any Lien upon or with respect to any of the assets or properties of the Project Party now owned or hereafter acquired. The Project Party is not in violation of any such law, rule or regulation, order, writ, judgment, decree, determination or award referred to in clause (ii) above or its certificate of incorporation or by-laws or in breach of or default under any provision of its certificate of incorporation or by-laws or any material agreement, lease or instrument referred to in clause (iii) above.

(d) [No Government Approval is required for the execution, delivery or performance of this Consent and Agreement and the Assigned Agreement by the Project Party or for the exercise by the Collateral Agent of its rights and remedies.] [Each Government Approval required for the execution, delivery or performance of this Consent and Agreement and the Assigned Agreement by the Project Party and for the exercise by the Collateral Agent of its rights and remedies hereunder has been validly issued and duly obtained, taken or made, is not subject to any condition, does not impose restrictions or requirements inconsistent with the terms hereof or of the Assigned Agreement, is in full force and effect and is not subject to appeal. Each such Government Approval is listed on Exhibit A hereto.]

(e) This Consent and Agreement and (assuming the due authorization, execution and delivery by, and binding effect on, the Owner) the Assigned Agreement are in full force and effect.

(f) There is no action, suit or proceeding at law or in equity by or before any Government Authority, arbitral tribunal or other body now pending or to the best knowledge of the Project Party, threatened against or affecting the Project Party or any of its properties, rights or assets which (i) if adversely determined, individually or in the aggregate, could have a material adverse effect on its ability to perform its obligations hereunder or under the Assigned Agreement or (ii) questions the validity, binding effect or enforceability hereof or of the Assigned Agreement

or any action taken or to be taken pursuant hereto or thereto or any of the transactions contemplated hereby or thereby.

(g) The Project Party is not in default under any material covenant or obligation hereunder or under the Assigned Agreement and no such default has occurred prior to the date hereof. To the best knowledge of the Project Party, the Owner is not in default under any material covenant or obligation of the Assigned Agreement and no such default has occurred prior to the date hereof. After giving effect to the assignment by the Owner to the Collateral Agent of the Assigned Agreement pursuant to the Security Documents, and after giving effect to the acknowledgment of and consent to such assignment by the Project Party, there exists no event or condition which would constitute a default, or which would, with the giving of notice or lapse of time or both, constitute a default under the Assigned Agreement. The Project Party and, to the best knowledge of the Project Party, the Owner have complied with all conditions precedent to the respective obligations of such party to perform under the Assigned Agreement.

(h) This Consent and Agreement and the Assigned Agreement constitute and include all agreements entered into by the Project Party relating to, and required for the consummation of, the transactions contemplated by this Consent and Agreement and the Assigned Agreement.

3. Consent and Agreement. The Project Party hereby acknowledges and agrees that:

(a) The Project Party hereby acknowledges and irrevocably consents to the assignment by the Owner of all its right, title and interest in the Assigned Agreement to the Collateral Agent as collateral security for the payment and performance by the Owner of its obligations under the Credit Agreement.

(b) Provided that an event of default by the Owner shall have occurred and be continuing pursuant to the loan documents executed in accordance with the Security Agreement, the Collateral Agent and any assignee thereof shall be entitled to exercise any and all rights of the Owner under the Assigned Agreement in accordance with their respective terms and the Project Party shall comply in all respects with such exercise. Without limiting the generality of the foregoing and provided that an event of default by the Owner shall have occurred and be continuing pursuant to the loan documents executed in accordance with the Security Agreement, the Collateral Agent and any assignee thereof shall have the full right and power to enforce directly against the Project Party 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 Owner under the Assigned Agreement.

(c) The Project Party will not, without the prior written consent of the Collateral Agent, take any action to (i) cancel or terminate, or suspend performance under, the Assigned Agreement (except as expressly provided in the Assigned Agreement), (ii) exercise any of its rights set forth in the Assigned Agreement to cancel or terminate, or suspend performance under, the Assigned Agreement unless the Project Party shall have delivered to the Collateral Agent written notice stating that it intends to exercise such right on a date not less than 45 days after the date of such notice, provided it has such right under the Assigned Agreement, specifying the nature of the default giving rise to such right (and, in the case of a payment default, specifying the amount thereof) and permitting the Collateral Agent to cure such default by making a payment in the amount in default or by performing or causing to be performed the obligation in default, as the case may be, (iii) except for change orders, amend, supplement or otherwise modify the Assigned Agreement (as in effect on the date hereof), (iv) sell, assign or otherwise dispose of (by operation of law or otherwise) any part of its interest in the Assigned Agreement or (v) petition, request or



take any other legal or administrative action which seeks, or may reasonably be expected, to rescind, terminate or suspend or amend or modify the Assigned Agreement or any part thereof. In furtherance of the foregoing clause (ii), the Project Party agrees that, notwithstanding anything contained in the Assigned Agreement to the contrary, upon the occurrence of a default under the Assigned Agreement that cannot by its nature be cured by the payment of money, the Project Party will not cancel or terminate the Assigned Agreement if, and for so long as, the Collateral Agent shall be diligently seeking to cure such default or otherwise to institute foreclosure proceedings, or otherwise to acquire the Owner's interest in the Assigned Agreement, and the Project Party shall grant the Collateral Agent a reasonable period of time to cure such default upon the occurrence of such foreclosure or acquisition.

(d) 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 Owner, a copy of each material notice, request or demand given by the Project Party pursuant to the Assigned Agreement.

(e) In the event that the Collateral Agent or its designee(s) succeeds to the Owner's interest under the Assigned Agreement as permitted under the Security Documents, the Collateral Agent or its designee(s) shall assume liability for all of the Owner's obligations under the Assigned Agreement; provided however, that such liability shall not include any liability for claims of the Project Party against the Owner arising from the Owner's failure to perform during the period prior to the Collateral Agent's or such designee(s)' succession to the Owner's interest in and 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 Owner under the Assigned Agreement and the assignment of the Assigned Agreement by the Owner to the Collateral Agent pursuant to the Security Agreement shall not give rise to any duties or obligations whatsoever on the part of any of the Secured Parties owing to the Project Party.

(f) Upon the exercise by the Collateral Agent of any of the remedies as permitted 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 Owner under the Assigned Agreement to any purchaser or transferee of the Project, if such purchaser or transferee shall assume all of the obligations of the Owner under the Assigned Agreement. Upon such assignment and assumption, the Collateral Agent shall be relieved of all obligations under the Assigned Agreement arising after such assignment and assumption.

(g) In the event that (i) the Assigned Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding involving the Owner or (ii) the Assigned Agreement is terminated as a result of any bankruptcy or insolvency proceeding involving the Owner and, if within 60 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 Owner as and to the extent required under the 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 Owner 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.

(h) 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 assume or be liable under the Assigned Agreement (as contemplated in subsection (e), (f) or (g) above), liability in respect of any and all obligations of any such party under the Assigned Agreement shall be limited solely to such party's interest in the Project (and no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto).

(i) All references 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 Agent under this Consent and Agreement may be taken by any such designee or transferee.

4. Arrangements Regarding Payments. All payments to be made by the Project Party to the Owner under the Assigned Agreement shall be made in lawful money of the United States, directly to the Collateral Agent, for deposit into the Revenue Account (Account No. [COLLATERAL AGENT'S ACCOUNT NUMBER]), at the Principal Office of the Collateral Agent 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 to the Project Party for application by the Collateral Agent in the manner contemplated in Section [ ] of the Credit Agreement, and shall be accompanied by a notice from the applicable Project Party stating that such payments are made under the Assigned Agreement.

5. Miscellaneous.

(a) No failure on the part of 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. The remedies provided herein against the Project Party are cumulative and not exclusive of any remedies provided by law.

(b) All notices, requests and other communications provided for herein and under the Assigned Agreement (including, without limitation, any modifications of, or waivers or consents under, this Consent and Agreement) shall be given or made in writing (including, without limitation, by telex or telecopy) delivered to the intended recipient at the "Address for Notices" specified below its name on the signature pages hereof or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Consent and Agreement, all such communications shall be deemed to have been duly given when transmitted by telex or telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as aforesaid.

(c) This Consent and Agreement may amended or modified only by an instrument in writing signed by the Project Party, the Owner 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 assigns of each of the Project Party, the Owner, 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, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and (b) 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 BECHTEL, OWNER AND THE COLLATERAL AGENT 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, EXCEPT FOR DISPUTES ARISING OUT OF OR RELATING TO THE ASSIGNED AGREEMENT WHICH WILL CONTINUE TO BE GOVERNED EXCLUSIVELY BY THE PROVISIONS OF THE ASSIGNED AGREEMENT. EACH OF BECHTEL, OWNER AND THE COLLATERAL AGENT 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, OWNER, THE COLLATERAL AGENT AND THE SECURED PARTIES, AND NO PERSON (OTHER THAN THE PARTIES HERETO, 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 BECHTEL, OWNER 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 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 [ ].

BECHTEL CORPORATION

By \_\_\_\_\_  
Title:

Address for Notices:

[ ]

Facsimile: [ ]

Telephone: [ ]

Attention: [ ]

HSBC BANK U.S.A. NATIONAL ASSOCIATION,  
as Collateral Agent

By \_\_\_\_\_  
Title:

Address for Notices:

[ ]

[ ]

[ ]

Facsimile: [ ]

Telephone: [ ]

Attention: [ ]

Acknowledged and Agreed:

SABINE PASS LNG, L.P.,

By \_\_\_\_\_  
Title:

Address for Notices:

[ ]

[ ]

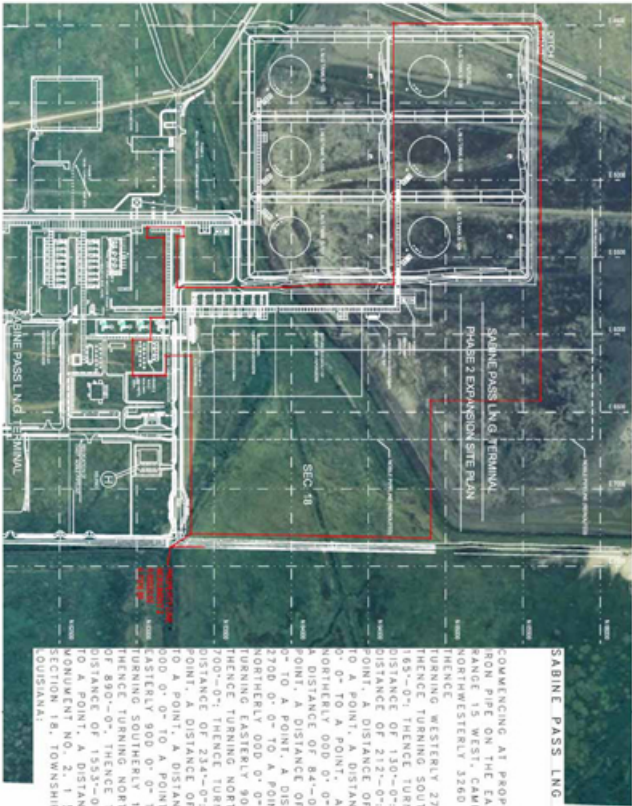
[ ]

Facsimile: [ ]

Telephone: [ ]

Attention: [ ]

GOVERNMENT APPROVALS



**SABINE PASS LNG CONSTRUCTION AREA FENCING PHASE 2.**

COMMENCING AT PROPERTY LINE MONUMENT NO. 2, 1 1/2 IN DIAMETER  
RANGE 15 WEST, CAMERON PARISH, LOUISIANA; THENCE TURNING  
NORTHWESTERLY 3260 0'-0", A DISTANCE OF 188.93' TO A POINT;  
THENCE  
TURNING WESTERLY 2700 0'-0" TO A POINT, A DISTANCE OF 1155'-0";  
THENCE TURNING SOUTHERLY 1800 0'-0" TO A POINT, A DISTANCE OF  
165'-0"; THENCE TURNING EASTERLY 900 0'-0" TO A POINT, A DISTANCE OF  
215'-0"; THENCE TURNING SOUTHERLY 1800 0'-0" TO A POINT, A DISTANCE OF  
212'-0"; THENCE TURNING WESTERLY 2700 0'-0" TO A  
POINT, A DISTANCE OF 230'-0"; THENCE TURNING NORTHERLY 000 0'-0"  
TO A POINT, A DISTANCE OF 117'-0"; THENCE TURNING WESTERLY 2700  
0'-0" TO A POINT, A DISTANCE OF 141'-0"; THENCE TURNING  
NORTHERLY 000 0'-0" TO A POINT, A DISTANCE OF 3280'-0";  
THENCE TURNING WESTERLY 2700 0'-0" TO A  
POINT, A DISTANCE OF 500'-0"; THENCE TURNING SOUTHERLY 1800 0'-  
0" TO A POINT, A DISTANCE OF 107'-0"; THENCE TURNING WESTERLY  
2700 0'-0" TO A POINT, A DISTANCE OF 68'-0"; THENCE TURNING  
NORTHERLY 000 0'-0" TO A POINT, A DISTANCE OF 237'-0"; THENCE  
TURNING EASTERLY 900 0'-0" TO A POINT, A DISTANCE OF 3280'-0";  
THENCE TURNING NORTHERLY 000 0'-0" TO A POINT, A DISTANCE OF  
230'-0"; THENCE TURNING WESTERLY 2700 0'-0" TO A  
POINT, A DISTANCE OF 224'-0"; THENCE TURNING NORTHERLY 000 0'-0" TO A  
POINT, A DISTANCE OF 470'-0"; THENCE TURNING WESTERLY 2700 0'-0"  
TO A POINT, A DISTANCE OF 1690'-0"; THENCE TURNING NORTHERLY  
000 0'-0" TO A POINT, A DISTANCE OF 955'-0"; THENCE TURNING  
EASTERLY 900 0'-0" TO A POINT, A DISTANCE OF 2440'-0"; THENCE  
TURNING SOUTHERLY 1800 0'-0" TO A POINT, A DISTANCE OF 1880'-0";  
THENCE TURNING NORTHEASTERLY 560 0'-0" TO A POINT, A DISTANCE  
OF 890'-0"; THENCE TURNING EASTERLY 900 0'-0" TO A POINT, A DISTANCE  
OF 1553'-0"; THENCE TURNING SOUTHEASTERLY 1460 0'-0"  
TO A POINT, A DISTANCE OF 188.93'; ENDING AT PROPERTY LINE  
MONUMENT NO. 2, 1 1/2 IN DIAMETER IRON PIPE ON THE EAST LINE OF  
SECTION 18, TOWNSHIP 15 SOUTH, RANGE 15 WEST, CAMERON PARISH,  
LOUISIANA;

CONFIDENTIAL

CHENIERE

CHENIERE LNG  
ATTACHMENT "A"  
PHASE 2 CONSTRUCTION AREA

ATT 11

**ATTACHMENT N**

**NOTICE OF PROVISIONAL ACCEPTANCE FORM**

Any Notice of Provisional Acceptance submitted by Bechtel pursuant to the Agreement shall be in a form substantially similar to the Notice of Provisional Acceptance Form attached hereto as Attachment N.

N-1

EPCM Agreement

NOTICE OF PROVISIONAL ACCEPTANCE FORM

Date: \_\_\_\_\_

Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Attention: Ed Lehotsky

Re: **NOTICE OF PROVISIONAL ACCEPTANCE** (\_\_\_\_) — Agreement for Engineering, Procurement, Construction and Management of Construction Services of the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion, dated as of July 21, 2006 (the “**Agreement**”), by and between Sabine Pass LNG, L.P. (“**Company**”) and Bechtel Corporation (“**Bechtel**”)

Pursuant to Section 11.[ ] of the Agreement, Bechtel hereby certifies that it has completed all requirements under the Agreement for Provisional Acceptance (\_\_\_\_), including: (i) RFH for [ ]; (ii) delivery by Bechtel to Company of a comprehensive Punchlist for [ ], including a cost estimate to complete the Punchlist for [ ], and the approval of such Punchlist and cost estimate by Company; (iii) delivery by Bechtel to Company of all documentation required to be delivered under this Agreement as a prerequisite of achievement of Provisional Acceptance (\_\_\_\_), including as-built drawings; (iv) delivery by Bechtel to Company of all remaining capital spares, capital spare parts and consumable spare parts purchased by Bechtel or its Subcontractors and still in Bechtel’s or its Subcontractors’ possession; and (v) Bechtel hereby delivers to Company of a Notice of Provisional Acceptance (\_\_\_\_) as required under Section 11.[ ].

Bechtel certifies that it achieved all requirements under the Agreement for Provisional Acceptance (\_\_\_\_) on \_\_\_\_\_, 200\_\_.

Attached is all information required to be provided by Bechtel with this Notice of Provisional Acceptance (\_\_\_\_) under Section 11.[ ] of the Agreement.

**IN WITNESS WHEREOF**, Bechtel has caused this Notice of Provisional Acceptance (\_\_\_\_) to be duly executed and delivered as of the date first written above.

**BECHTEL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Attn: General Counsel



---

**Company Acceptance or Rejection of Notice of Provisional Acceptance (\_\_\_\_\_)**

Pursuant to Section 11.[ ] of the Agreement, Company \_\_\_\_\_ accepts or \_\_\_\_\_ rejects (check one) the Notice of Provisional Acceptance (\_\_\_\_\_).

If Provisional Acceptance (\_\_\_\_\_) was achieved, Provisional Acceptance (\_\_\_\_\_) was achieved on \_\_\_\_\_, 200\_\_.

Acceptance of Provisional Acceptance (\_\_\_\_\_) shall not relieve Bechtel of any of Bechtel's obligations to perform the Work in accordance with the requirements of the Agreement, nor shall it in any way release Bechtel or any surety of Bechtel from any obligations or liability pursuant to the Agreement, including obligations with respect to unperformed obligations of the Agreement or for any Work that does not conform to the requirements of this Agreement.

The basis for any rejection of Provisional Acceptance (\_\_\_\_\_) is attached hereto.

For and on behalf of  
**SABINE PASS LNG, L.P.**

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTACHMENT O**

**NOTICE OF FINAL ACCEPTANCE FORM**

The Notice of Final Acceptance submitted by Bechtel pursuant to the Agreement shall be in a form substantially similar to the Notice of Final Acceptance Form attached hereto as Attachment O.

O-1

EPCM Agreement

NOTICE OF FINAL ACCEPTANCE FORM

Date: \_\_\_\_\_

Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Attention: Ed Lehotsky

Re: **NOTICE OF FINAL ACCEPTANCE**— Agreement for Engineering, Procurement, Construction and Management of Construction Services, dated as of July 21, 2006 (the “**Agreement**”), by and between Sabine Pass LNG, L.P. (“**Company**”) and Bechtel Corporation (“**Bechtel**”)

Pursuant to Section 11.6 of the Agreement, Bechtel hereby certifies that all Work and all other obligations under the Agreement (except for that Work and obligations that survive the termination or expiration of the Agreement, including obligations for Warranties and correction of Defective Services pursuant to Article 13 and management of warranty or remedial work by Company Contractors as set forth in Section 11.6) are fully and completely performed in accordance with the terms of the Agreement, including: (i) the achievement of Provisional Acceptance (BOP), Provisional Acceptance (Tank S-104) and Provisional Acceptance (Tank S-105); (ii) the completion of all Punchlist items, except those Punchlist items that Company has expressly in writing excused Bechtel or Company Contractors from performing; (iii) delivery by Bechtel to Company of a fully executed final conditional lien and claim waiver in the form of Attachment I, Schedule I-3; (iv) delivery by Bechtel of fully executed final conditional lien and claim waivers from all Bechtel Subcontractors in the form of Attachment I, Schedule I-4; (v) delivery by all Company Contractors and their subcontractors of conditional or unconditional final lien and claim waivers as required by the applicable Company Contracts; (vi) delivery by Bechtel to Company of all documentation required to be delivered under this Agreement as a prerequisite of achievement of Final Acceptance; (vii) unless otherwise instructed by Company pursuant to Section 18.2, removal from the Phase 2 Site of all of the personnel, supplies, waste, materials, rubbish, and temporary facilities of Bechtel, Bechtel Subcontractors and Company Contractors; (viii) delivery by Bechtel to Company of all remaining consumable spare parts and capital spare parts purchased by Bechtel or its Subcontractors and still in Bechtel’s or its Subcontractors’ possession; and (ix) Bechtel hereby delivers this Notice of Final Acceptance as required under Section 11.6 of the Agreement.

Bechtel certifies that it achieved all requirements under the Agreement for Final Acceptance on \_\_\_\_\_, 200\_\_.

Attached is all documentation required under the Agreement to be provided by Bechtel with this Notice of Final Acceptance.

**IN WITNESS WHEREOF**, Bechtel has caused this Notice of Final Acceptance to be duly executed and delivered as of the date first written above.

**BECHTEL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Attn: General Counsel

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**Company Acceptance or Rejection of Notice of Final Acceptance**

Pursuant to Section 11.6 of the Agreement, Company \_\_\_\_\_ accepts or \_\_\_\_\_ rejects (check one) the Notice of Final Acceptance.

If Final Acceptance was achieved, Final Acceptance was achieved on \_\_\_\_\_, 200\_\_.

Acceptance of the Notice of Final Acceptance shall not relieve Bechtel of any of Bechtel's remaining obligations in accordance with the requirements of the Agreement, nor shall it in any way release Bechtel or any surety of Bechtel from any obligations or liability pursuant to the Agreement, including obligations with respect to unperformed obligations of the Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations.

The basis for any rejection of the Notice of Final Acceptance is attached hereto.

For and on behalf of  
**SABINE PASS LNG, L.P.**

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTACHMENT P**

**NOTICE OF RFH FORM**

Any Notice of RFH submitted by Bechtel pursuant to the Agreement shall be in a form substantially similar to the Notice of RFH Form attached hereto as Attachment P.

NOTICE OF RFH FORM

Date: \_\_\_\_\_

Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Attention: Ed Lehotsky

Re: **NOTICE OF RFH** — Agreement for Engineering, Procurement, Construction and Management of Construction Services of the Sabine Pass LNG Phase 2 Receiving, Storage and Regasification Terminal Expansion, dated as of July 21, 2006 (the “**Agreement**”), by and between Sabine Pass LNG, L.P. (“**Company**”) and Bechtel Corporation (“**Bechtel**”)

Pursuant to Section 11.1.1 of the Agreement, Bechtel hereby certifies that it has completed all requirements under the Agreement for Ready for Handover with respect to the following System:

\_\_\_\_\_  
\_\_\_\_\_  
(list applicable System for the Phase 2 Project)

including: (i) Bechtel has completed all applicable Services and all work to be performed by Company Contractors have occurred, other than Services and work of a Punchlist nature, in accordance with the requirements contained in this Agreement and the Company Contracts to ensure that the System is ready for commissioning and startup; (ii) Bechtel has submitted, and Company has approved, detailed requirements for Ready for Handover for the System; and (iii) Bechtel hereby delivers to Company this Notice of RFH as required by Section 11.1 of the Agreement.

Attached is supporting documentation which is reasonably required under the Agreement to establish that the requirements for Ready for Handover for the System have been met.

Bechtel certifies that it achieved all requirements under the Agreement for Ready for Handover for the System on \_\_\_\_\_, 200\_\_.

**IN WITNESS WHEREOF**, Bechtel has caused this Notice of RFH for the System to be duly executed and delivered as of the date first written above.

**BECHTEL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: Sabine Pass LNG, L.P.  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Attn: General Counsel

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**Company Acceptance or Rejection of Notice of RFH**

Pursuant to Section 11.1.1 of the Agreement, Company \_\_\_\_\_ accepts or \_\_\_\_\_ rejects (check one) the Notice of RFH.

If Ready for Handover was achieved, Ready for Handover was achieved on \_\_\_\_\_, 200\_\_.

Acceptance of Ready for Handover shall not relieve Bechtel of any of Bechtel's obligations to perform the Work in accordance with the requirements of the Agreement, nor shall it in any way release Bechtel or any surety of Bechtel from any obligations or liability pursuant to the Agreement, including obligations with respect to unperformed obligations of the Agreement or for any Work that does not conform to the requirements of this Agreement.

The basis for any rejection of Ready for Handover is attached hereto.

For and on behalf of  
**SABINE PASS LNG, L.P.**

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SABINE PASS LNG PROJECT (PHASE 2)**  
**ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT**

**Tank Contract Form of Agreement**

Tank Contractor:	Diamond LNG LLC	Purchaser:	Sabine Pass LNG, L.P.
Address:	1221 McKinney One Houston Center, Suite 3330 Houston, Texas 77010	Address:	717 Texas Avenue Suite 3100 Houston, TX 77002
Contact:	Mr. Sam Saita	Contact:	Ed Lehotsky
Telephone:	713-652-9250	Telephone:	713-265-0206
Facsimile: and:	713-652-9346 Zachry Construction Corporation	Facsimile:	713-659-5459
Address:	527 Logwood San Antonio, Texas 78221		
Contact:	Mike Mosley		
Telephone:	210-475-8411		
Facsimile:	210-475-8129		

This "Tank Contract" is dated effective as of the \_\_\_\_\_ day of July, 2006 (the "Effective Date"), between Sabine Pass LNG, L.P. ("PURCHASER") and Zachry Construction Corporation, a Delaware corporation ("Zachry"), and Diamond LNG LLC, a Delaware limited liability company ("Diamond") (Zachry and Diamond, collectively "TANK CONTRACTOR," and together with PURCHASER, each a "Party," and together the "Parties") who hereby agree that all Work specified below shall be performed by TANK CONTRACTOR in accordance with all the provisions of this Tank Contract, consisting of the following "Tank Contract Documents":

This Tank Contract Form of Agreement  
Exhibit "A" – General Conditions  
Exhibit "B" – Special Conditions  
Exhibit "C" – Quantities, Pricing and Data  
Exhibit "D" – Scope of Work  
Exhibit "E" – Data Sheets and Drawings



Exhibit "F" – Updated Bechtel Technical Specification List as of June 23, 2006

Exhibit "G" – RFI (Request For Information) List as of June 23, 2006

Exhibit "H" – Technical Clarification Sheets

Exhibit "I" – Diamond/MSI Deliverables and Approval Status as of June 23, 2006

Exhibit "J" – Updated Drawings and Tank Data Sheet as of June 23, 2006

Exhibit "K" – Design Basis

Exhibit "L" – Scope of Management Contractor's Authority as Authorized Representative

In Exhibits H and K references to SUBCONTRACTOR shall be to TANK CONTRACTOR; references to CONTRACTOR shall be to PURCHASER; and references to OWNER shall be to PURCHASER.

1. **WORK TO BE PERFORMED:** Except as specified elsewhere in the Tank Contract, TANK CONTRACTOR shall furnish all plant; labor; materials; tools; supplies; equipment; transportation; supervision; technical; professional and other services; and shall perform all operations necessary and required to satisfactorily:  
**Engineer, Procure and Construct the Phase 2 Tanks, in accordance with the Tank Contract Documents.**
2. **SCHEDULE:** The Work shall be performed in accordance with the dates set forth in Special Condition 8, SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
3. **COMPENSATION:** As full consideration for the satisfactory performance by TANK CONTRACTOR of this Tank Contract, PURCHASER shall pay to TANK CONTRACTOR the Tank Contract Price in accordance with the amounts set forth in Exhibit "C" and the payment provisions of this Tank Contract.
4. **JOINT AND SEVERAL OBLIGATIONS:** Zachry and Diamond each shall be jointly and severally obligated and liable to PURCHASER to fulfill fully and timely all of TANK CONTRACTOR's agreements, liabilities, obligations and responsibilities under the Tank Contract. Without limiting the foregoing, (a) in the event Zachry becomes a debtor in a bankruptcy case commenced under Chapter 7 or Chapter 11 of the United States Bankruptcy Code or under any other insolvency, liquidation, or debt relief statute, then Diamond shall continue to be obligated and liable to PURCHASER to fulfill fully and timely all of TANK CONTRACTOR's agreements, liabilities, obligations and responsibilities under the Tank Contract (including performing in accordance with the Milestone Time Schedule and Tank Contract Schedule) and (b) in the event Diamond becomes a debtor in a bankruptcy case commenced under Chapter 7 or Chapter 11 of the United States Bankruptcy Code or under any other insolvency, liquidation, or debt relief statute, then Zachry shall continue to be obligated and liable to PURCHASER to fulfill fully and timely all of TANK CONTRACTOR's agreements, liabilities, obligations and responsibilities under the Tank Contract (including performing in accordance with the Milestone Time Schedule and Tank Contract Schedule); in each case regardless of (x) any delays that may result from or be attributed to such bankruptcy case, (b) whether the

Tank Contract is assumed or rejected as an executory contract by the debtor or trustee, as the case may be, in such bankruptcy case, or (c) the timing or effective date of any such assumption or rejection.

5. PARENT GUARANTEES. On or before the execution of this Tank Contract, Mitsubishi Heavy Industries Ltd., a Japanese corporation, will execute the guarantee agreement with respect to the obligations of Diamond under the Tank Contract in the form attached as Exhibit "B" Appendix B-5. Mitsubishi Heavy Industries Ltd. shall be referred to as "Guarantor."

This Tank Contract embodies the entire agreement between PURCHASER and TANK CONTRACTOR with respect to the subject matter herein and supersedes all other writings. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding not set forth herein.

PURCHASER:

Sabine Pass LNG, L.P.

Authorized  
Signature: /s/ Stanley C. Horton  
Print Name: Stanley C. Horton  
Print Title: Chief Executive Officer

TANK CONTRACTOR:

Diamond LNG LLC

Authorized  
Signature: /s/ Sam Saita  
Print Name: Sam Saita  
Print Title: Vice President

Zachry Construction Corporation

Authorized  
Signature: /s/ Stephen H. Edman  
Print Name: Stephen H. Dedman  
Print Title: Vice President

## SABINE PASS LNG TERMINAL PROJECT (PHASE 2)

## EXHIBIT "A"

## ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT

## GENERAL CONDITIONS

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EXHIBIT "A"

ENGINEER, PROCURE AND CONSTRUCT LNG TANK CONTRACT GENERAL CONDITIONS

**GC-1 INDEPENDENT CONTRACTOR**

- 1.1 TANK CONTRACTOR represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Work under this Tank Contract. TANK CONTRACTOR shall act as an independent contractor and not as the agent of PURCHASER in performing this Tank Contract, maintaining complete control over its employees and all of its associates, Subcontractors and Subsubcontractors. Nothing contained in this Tank Contract or any Subcontract or Subsubcontract awarded by TANK CONTRACTOR shall create any contractual relationship between any Subcontractor or Subsubcontractor and PURCHASER. TANK CONTRACTOR shall perform the Work using Good Engineering and Construction Practices and subject to compliance with the Tank Contract.

**GC-2 AUTHORIZED REPRESENTATIVES**

- 2.1 Before starting any Work, TANK CONTRACTOR shall designate in writing an authorized representative acceptable to PURCHASER to represent and act for TANK CONTRACTOR and shall specify any and all limitations of such representative's authority. PURCHASER agrees that TANK CONTRACTOR's Key Personnel are acceptable to PURCHASER. Such representative shall be present or be represented at the Phase 2 Tank Site at all times when Work is in progress and shall be empowered to receive communications in accordance with this Tank Contract on behalf of TANK CONTRACTOR. During periods when the Work is suspended, arrangements shall be made for an authorized representative acceptable to PURCHASER for any emergency work that may be required. All communications given to the authorized representative by PURCHASER in accordance with this Tank Contract shall be binding upon TANK CONTRACTOR. PURCHASER shall designate in writing one or more representatives to represent and act for PURCHASER and to receive communications from TANK CONTRACTOR. Notification of changes of authorized representatives for either PURCHASER or TANK CONTRACTOR shall be provided in advance, in writing, to the other Party.

**GC-3 NOTICES**

- 3.1 Any notices required hereunder shall be in writing and may be served either personally on the authorized representative of the receiving Party at the Phase 2 Tank Site, by facsimile, by courier or express delivery, or by certified mail to the facsimile number or address of that Party or at such facsimile number or address as may have been directed by written notice.

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#### **GC-4 TANK CONTRACT INTERPRETATION**

- 4.1 All questions concerning interpretation or clarification of this Tank Contract or applicable standards and codes, including the discovery of conflicts, discrepancies, errors or omissions, or the acceptable performance thereof by TANK CONTRACTOR, shall be immediately submitted in writing to PURCHASER for resolution. At all times TANK CONTRACTOR shall proceed with the Work in accordance with the determinations, instructions, and clarifications of PURCHASER. TANK CONTRACTOR shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so.

#### **GC-5 ORDER OF PRECEDENCE**

- 5.1 All Tank Contract Documents and subsequently issued Change Orders and amendments are essential parts of this Tank Contract and a requirement occurring in one is binding as though occurring in all. In resolving conflicts, discrepancies, or errors the following order of precedence shall be used:
- (1) Tank Contract Form of Agreement
  - (2) Exhibit "B" – Special Conditions
  - (3) Exhibit "A" – General Conditions
  - (4) Exhibit "C" – Quantities, Pricing and Data
  - (5) Exhibit "L" – Scope of Management Contractor's Authority as Authorized Representative
  - (6) Exhibit "H" – Technical Clarification Sheets
  - (7) Exhibit "G" – RFI (Request for Information) List as of June 23, 2006
  - (8) Exhibit "J" – Updated Drawings and Tank Data Sheet as of June 23, 2006
  - (9) Exhibit "I" – Diamond/MSI Deliverables and Approval Status as of June 23, 2006
  - (10) Exhibit "F" – Updated Bechtel Technical Specification List as of June 23, 2006
  - (11) Exhibit "D" – Scope of Work
  - (12) Exhibit "E" – Data Sheets and Drawings
  - (13) Exhibit "K" – Design Basis

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#### **GC-6 STANDARDS AND CODES**

- 6.1 Wherever references are made in this Tank Contract to standards or codes in accordance with which the Work under this Tank Contract is to be performed, the edition or revision of the standards or codes current on the Effective Date of this Tank Contract shall apply unless otherwise expressly stated. In case of conflict between any referenced standards and codes and any Tank Contract Documents, General Condition 4, titled TANK CONTRACT INTERPRETATION shall apply.
- 6.2 TANK CONTRACTOR shall, in preparation of its detail design, select the more stringent of applicable local, national and international standards or codes of practice, when not otherwise specified in the Tank Contract Documents or writing by PURCHASER.

#### **GC-7 LAWS AND REGULATIONS**

- 7.1 All Applicable Laws in effect at the time the Work under this Tank Contract is performed shall apply to TANK CONTRACTOR and its employees and representatives.
- 7.2 If TANK CONTRACTOR discovers any discrepancy or inconsistency between this Tank Contract and any Applicable Law, TANK CONTRACTOR shall immediately notify PURCHASER in writing.
- 7.3 If during the term of this Tank Contract there is any Change in Law (but excluding changes to Tax laws where such Taxes are based upon TANK CONTRACTOR's inventory, income, profits/losses or cost of finance) which become effective after the Effective Date and which affect the cost or time of performance of this Tank Contract, TANK CONTRACTOR shall immediately notify PURCHASER and submit detailed documentation of such effect in terms of both time and cost of performing the Tank Contract. If the Work is affected by such changes and PURCHASER concurs with their effect, an equitable adjustment will be made pursuant to General Condition 32, titled CHANGES.

#### **GC-8 PERMITS**

- 8.1 PURCHASER shall provide the Permits as set forth and limited to those Permits identified in Special Condition 6, titled PURCHASER PERMITS.
- 8.2 TANK CONTRACTOR shall procure and pay for all TANK CONTRACTOR Permits, and shall furnish any documentation, bonds, security or deposits required to permit performance of the Work. An allowance of Two Thousand U.S. Dollars (US \$2,000) is included in the Tank Contract Price, and if the actual cost of TANK CONTRACTOR Permits not listed in Exhibit "B" Appendix B-16 is greater or lesser than such amount, a Change Order shall be issued increasing or decreasing, as applicable, the Tank Contract Price.
- 8.3 TANK CONTRACTOR shall provide PURCHASER with copies of such TANK CONTRACTOR Permits as soon as reasonably practicable after they are obtained. TANK CONTRACTOR shall provide

information, assistance and documentation to PURCHASER as reasonably requested in connection with the PURCHASER Permits; provided that such information, assistance and documentation shall not include TANK CONTRACTOR's provision of information, testimony, documents or data by TANK CONTRACTOR employees under oath (unless specifically authorized by TANK CONTRACTOR) and activities outside the field of TANK CONTRACTOR's expertise, training or experience of personnel assigned to the performance of the Work under this Tank Contract (except to the extent provided for by Change Order issued pursuant to General Condition 32, titled CHANGES). PURCHASER agrees to cooperate as reasonably requested by TANK CONTRACTOR in the obtaining of TANK CONTRACTOR Permits.

#### **GC-9 TAXES**

- 9.1 Subject to the Louisiana Sales and Use Tax Allowance in SC-43.5, the Tank Contract Price includes all Taxes and TANK CONTRACTOR shall pay all Taxes, levies, duties and assessments of every nature due in connection with the Work under this Tank Contract and shall make any and all payroll deductions and withholdings required by Applicable Law, and hereby indemnifies and holds harmless PURCHASER Group from any liability on account of any and all such Taxes, levies, duties, assessments and deductions.

#### **GC-10 LABOR, PERSONNEL AND WORK RULES**

- 10.1 Design Activities
- (1) PURCHASER'S written approval of all TANK CONTRACTOR personnel assigned to perform the Work shall be a condition precedent to payment of their costs. TANK CONTRACTOR shall submit resumes for each individual setting forth educational and professional qualifications, experience, tasks to be performed, position, and compensation. TANK CONTRACTOR shall verify all academic degrees and professional credentials and certifies the accuracy of any TANK CONTRACTOR submitted qualifications. PURCHASER agrees that all TANK CONTRACTOR personnel pre-approved by PURCHASER and identified as Key Personnel herein shall be acceptable to PURCHASER.
  - (2) PURCHASER shall review and approve or reject assignments for cause within ten (10) Days. Approval of assignments shall not relieve TANK CONTRACTOR of the full responsibilities of employer and shall create no direct relationship between the individual and PURCHASER.
  - (3) TANK CONTRACTOR shall assign only competent and qualified personnel and shall at all times be solely responsible for their work quality. PURCHASER may request the removal of individual employees for cause at any time and TANK CONTRACTOR agrees to comply and to promptly provide acceptable replacement personnel.



- (1) TANK CONTRACTOR shall employ only competent and skilled personnel to perform the Work and shall remove from the Site any TANK CONTRACTOR personnel determined to be unfit or to be acting in violation of any provision of this Tank Contract. TANK CONTRACTOR is responsible for maintaining labor relations in such manner that there is harmony among workers and shall comply with and enforce Phase 1 and Phase 2 Project and Phase 2 Tank Site procedures, regulations, work rules and work hours established by PURCHASER. Such procedures will be furnished in writing to TANK CONTRACTOR. If, after the Effective Date, PURCHASER changes or modifies such procedures and such changes cause a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.
- (2) PURCHASER may deny access for reasonable cause to the Phase 2 Tank Site to any individual by written notice to TANK CONTRACTOR. In the event an employee is excluded from the Phase 2 Tank Site, TANK CONTRACTOR shall promptly replace such individual with another who is fully competent and skilled to perform the Work.
- (3) TANK CONTRACTOR is responsible for maintaining labor relations in such manner that, so far as reasonably practicable, there is harmony among workers. TANK CONTRACTOR and its Subcontractors and Subsubcontractors shall conduct their labor relations in accordance with the recognized prevailing local area practices. TANK CONTRACTOR shall inform PURCHASER promptly of any labor dispute, anticipated labor dispute, request or demand by a labor organization, its representatives or members which may reasonably be expected to affect the Work. TANK CONTRACTOR shall not be bound by any organized labor agreements or project specific labor agreements. TANK CONTRACTOR further agrees to inform PURCHASER, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations.
- (4) Notwithstanding the foregoing, PURCHASER shall not have any liability and TANK CONTRACTOR agrees to release, indemnify, defend and hold harmless the PURCHASER Group from and against any and all claims, causes of action, damages, losses, cost and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) and liabilities, of whatsoever kind or nature, which may directly or indirectly arise or result from TANK CONTRACTOR or any Subcontractor or Subsubcontractor choosing to terminate the employment of any such employee (including any Key Person) or remove such employee from the Project who fails to meet the foregoing requirements following a request by PURCHASER to have such employee removed from the Work. Any such employee shall be replaced at the cost and expense of TANK CONTRACTOR or the relevant Subcontractor or Subsubcontractor.

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**GC-11 COMMERCIAL ACTIVITIES**

- 11.1 Neither TANK CONTRACTOR nor its employees shall establish any commercial activity or issue concessions or permits of any kind to any Person for establishing commercial activities on the Site or any other lands owned or controlled by PURCHASER.

**GC-12 PUBLICITY AND ADVERTISING**

- 12.1 Neither TANK CONTRACTOR nor its Subcontractors or Subsubcontractors shall make any announcement, take any photographs of any part of the Phase 2 Facility for publicity or advertising purposes, issue a press release, advertisement, publicity material, financial document or similar matter or participate in a media interview that mentions or refers to the Work or any part of the Phase 2 Facility or release any information concerning this Tank Contract, or the Phase 1 or Phase 2 Project, or any part thereof to any member of the public, press, business entity, or any official body unless prior written consent is obtained from PURCHASER, which shall not be unreasonably withheld.

**GC-13 SAFETY AND HEALTH**

- 13.1 TANK CONTRACTOR shall be responsible for conducting operations under this Tank Contract to avoid risk of harm to the health and safety of persons and property and for inspecting and monitoring all its equipment, materials and work practices to ensure compliance with its obligations under this Tank Contract.
- 13.2 TANK CONTRACTOR shall be responsible for developing and implementing a Safety and Health Plan (S&H Plan) pursuant to the terms of this Tank Contract. TANK CONTRACTOR's S&H Plan shall as a minimum conform and comply with:
- (1) Applicable Law governing safety and health in the workplace;
  - (2) TANK CONTRACTOR's specific Scope of Work under this Tank Contract; and
  - (3) PURCHASER's safety and health standards as set forth in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS, as well as PURCHASER's S&H Plan, including revisions thereto issued by PURCHASER in writing. If TANK CONTRACTOR considers any such revision made after the Effective Date to be a change affecting cost or the Tank Contract Schedule, TANK CONTRACTOR shall comply with the requirements of this Tank Contract and shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.
  - (4) Operating Plant Procedures developed for the Phase 1 Facility and applicable to the Phase 2 Facility, or any portions thereof, and delivered to TANK CONTRACTOR after the Effective Date. If the Operating Plant Procedures cause a change in the Work affecting the cost or the

Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

- 13.3 Within thirty (30) Days after Effective Date and in any event prior to commencing Work at the Phase 2 Tank Site, TANK CONTRACTOR shall submit its S&H Plan to PURCHASER for review and approval.
- 13.4 To the extent allowed by Applicable Law, TANK CONTRACTOR shall assume all responsibility and liability with respect to all matters regarding the safety and health of its employees and the employees of Subcontractors and Subsubcontractors with respect to the risks under this Tank Contract.
- 13.5 TANK CONTRACTOR's failure to correct any unsafe condition or unsafe act by TANK CONTRACTOR or any Subcontractors or Subsubcontractors may, at the sole discretion of PURCHASER, be grounds for an order by PURCHASER to stop the affected Work or operations until the unsafe act or condition is corrected to PURCHASER's satisfaction at TANK CONTRACTOR's expense.
- 13.6 If the unsafe act or condition continues despite notice and reasonable opportunity to affect a resolution, PURCHASER may, at its sole discretion, correct the unsafe act or condition at TANK CONTRACTOR's expense pursuant to General Condition 38, titled BACKCHARGES or terminate this Tank Contract pursuant to General Condition 45, titled TERMINATION FOR DEFAULT.
- 13.7 TANK CONTRACTOR shall assign to the Phase 2 Tank Site one (or more as necessary for compliance with the terms of this clause) safety representative(s) acceptable to PURCHASER. Such safety representative(s) shall be physically located at the Phase 2 Tank Site, shall have authority for correcting unsafe acts or conditions by TANK CONTRACTOR or any Subcontractors and Subsubcontractors, and shall participate in periodic safety meetings with PURCHASER. TANK CONTRACTOR shall instruct its personnel on the requirements of TANK CONTRACTOR's S&H Plan and coordinate with other contractors and subcontractors at the Phase 1 and Phase 2 Sites on safety matters required for the Work.
- 13.8 Unless otherwise specified by PURCHASER, TANK CONTRACTOR shall furnish all safety equipment required for the Work, require the use of such safety equipment, and provide safety instructions to its employees. All safety equipment must be manufactured to a standard acceptable to PURCHASER as set forth in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.
- 13.9 TANK CONTRACTOR shall maintain accident and injury records as required by Applicable Law. Such records will be made available to PURCHASER upon request. TANK CONTRACTOR shall furnish PURCHASER with a weekly and monthly summary of accidents, injuries, and labor hours lost to work-related injuries of its employees and employees of all Subcontractors and Subsubcontractors in a form and format designated by PURCHASER.
- 13.10 TANK CONTRACTOR shall immediately report to PURCHASER any death, injury or damage to property incurred or caused by TANK CONTRACTOR or any Subcontractors or Subsubcontractors. In

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addition, in the event of any safety incident involving a significant non-scheduled event such as fires, explosions or mechanical failures, or in the event of any safety incident involving non-scheduled LNG or Natural Gas releases or unusual over-pressurizations of which TANK CONTRACTOR is aware, TANK CONTRACTOR shall provide a written report to PURCHASER within eight (8) hours of the occurrence of such incident; provided, however, notification shall be provided to PURCHASER immediately if the incident is of significant magnitude to threaten public or employee safety or interrupt the Work.

#### **GC-14 ENVIRONMENTAL REQUIREMENTS**

- 14.1 Throughout performance of the Work, TANK CONTRACTOR shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any spread or release of Hazardous Materials.
- 14.2 TANK CONTRACTOR shall:
- (1) Comply with Applicable Law governing environmental requirements and conduct the Work based on the requirements of this Tank Contract, including compliance with Permit requirements and Project plans and approvals.
  - (2) Provide all documentation required by all levels of Governmental Instrumentality authority or PURCHASER concerning environmental requirements.
  - (3) Provide and maintain effective planning and field control measures for the following activities:
    - Wastewater discharges to land, surface water, or groundwater,
    - Extraction/supply of water;
    - Storm water management;
    - Spill prevention and response;
    - Erosion and sedimentation control;
    - Air emissions and dust control;
    - Noise control;
    - Waste and hazardous waste management; and
    - Work area restoration, including re-vegetation.

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These measures shall include obtaining certifications; conducting requisite analyses and monitoring of such activities as required by the Tank Contract Documents, Permit conditions or other Applicable Law; utilizing appropriate equipment; and proceeding in accordance with Permit requirements.

- (4) Be responsible for developing and maintaining a written Environmental Compliance Plan in accordance with TANK CONTRACTOR's established practices, including but not limited to compliance with Applicable Law and the requirements of the Project Construction Environmental Control Plan (CECP) (the CECP for the Phase 1 Project is attached as Appendix B-8; PURCHASER, working with Management Contractor, will develop a Phase 2 Project CECP for the Phase 2 Project, which shall be substantially similar to the CECP for the Phase 1 Project). TANK CONTRACTOR shall have sole responsibility for implementing and enforcing its Environmental Compliance Plan.
- (5) Submit its written Environmental Compliance Plan to PURCHASER for review thirty (30) Days after the Effective Date and in any event prior to commencing Work at the Phase 2 Tank Site. PURCHASER's review of TANK CONTRACTOR's plan shall not relieve TANK CONTRACTOR of its obligation under this Tank Contract or as imposed by Applicable Law and TANK CONTRACTOR shall be solely responsible for the adequacy of its Environmental Compliance Plan.
- (6) Comply with all access restrictions, including prohibitions on access to certain areas on or adjacent to the Phase 2 Tank Site and require its personnel and those of its Subcontractors and Subsubcontractors to comply with all signage and flagging related to such restricted areas. Restricted areas may include, but are not limited to: designated wetlands; environmental mitigation study areas; cultural/historical/archaeological sites; and designated fish, wildlife, or vegetative habitat.
- (7) Require that its personnel do not hunt, fish, feed, capture, extract, or otherwise disturb aquatic, animal, or vegetative species within the Phase 2 Project boundary or while performing any tasks in performance of the Work.
- (8) Not proceed with any renovation or demolition Work until asbestos surveys and notifications have been completed to the appropriate regulatory agencies, in accordance with the division of responsibility outlined in the Project's CECP and PURCHASER specifically authorizes that Work to proceed. Should asbestos containing materials be uncovered during TANK CONTRACTOR's Work, the provisions of subclause (9) below shall apply.
- (9) Immediately stop Work in any area where contaminated soil indicators (such as odor or appearance), unknown containers, piping, underground storage tanks, or similar structures are discovered; or any other materials, which are reasonably suspected to be Hazardous Materials.

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TANK CONTRACTOR shall then immediately notify PURCHASER and the stop work area shall be determined by PURCHASER and confirmed in writing. Activity in the stop work area shall only resume upon PURCHASER's written approval.

- (10) Immediately stop Work in any area where cultural resources or artifacts with archaeological or historical value are discovered, and immediately notify PURCHASER. The stopped Work shall proceed in the manner set forth in subclause (9) above. No artifacts, items, or materials shall be disturbed or taken from the area of discovery. Neither TANK CONTRACTOR nor any Subcontractor or Subsubcontractor shall have property rights to such artifacts, items, or materials, which shall be secured and guarded until turned over to PURCHASER or the appropriate Governmental Instrumentalities. TANK CONTRACTOR shall also require that its personnel and those of its Subcontractors and Subsubcontractors comply with this provision and respect all historic and archaeological sites in the area. TANK CONTRACTOR will be entitled to seek relief in accordance with General Condition 32, titled CHANGES, in connection with stoppage of Work pursuant to this subparagraph.
  - (11) Manage, store, and dispose of all Hazardous Materials brought to the Site or generated by TANK CONTRACTOR, Subcontractors and Subsubcontractors during performance of the Work in accordance with Applicable Law (for U.S. projects this includes Resource and Conservation Recovery Act (RCRA) regulations and state special and Hazardous Material programs) and as outlined in the Project CECP. This includes, but is not limited to: waste minimization; Hazardous Material generator registration; Hazardous Materials inventory with Material Safety Data Sheets (MSDS) for each Hazardous Material on site; employee training; Hazardous Material spill management and reporting; proper storage of Hazardous Materials; equipment decontamination; onsite and offsite transport of Hazardous Materials; and selection and use of offsite final disposal facilities. For purposes of this paragraph, the term "generated" refers to all materials purchased by or brought to the Site by TANK CONTRACTOR or its Subcontractors or Subsubcontractors and does not mean stirring up, disturbing or otherwise releasing pre-existing Hazardous Materials. As between PURCHASER and TANK CONTRACTOR, PURCHASER will be responsible for all other Hazardous Materials present or occurring on the Site, provided that this sentence shall not relieve Diamond of any of its responsibilities or liabilities with respect to the Phase 1 Project. PURCHASER will provide TANK CONTRACTOR with a copy of all environmental reports with respect to the Site that were produced by or on behalf of PURCHASER prior to the Effective Date.
- 14.3 TANK CONTRACTOR shall deliver to PURCHASER (i) notice of any pending or threatened material environmental claim with respect to the Phase 2 Project, and (ii) promptly upon their becoming available, copies of written communications with any Governmental Instrumentality relating to any such material environmental claim.

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- 14.4 TANK CONTRACTOR's obligations under General Condition 39, titled INDEMNITY, apply to any liability arising in connection with or incidental to TANK CONTRACTOR's performance or failure to perform as provided in this clause.

#### **GC-15 SITE CONDITIONS AND NATURAL RESOURCES**

- 15.1 TANK CONTRACTOR shall have the sole responsibility for satisfying itself concerning the nature and location of the Work and the general and local conditions, including but not limited to the following:
- (1) Transportation, access, disposal, handling and storage of materials;
  - (2) Availability, cost and quality of labor (subject to SC-45), water, electric power and road conditions;
  - (3) Climatic conditions, tides, and seasons;
  - (4) River hydrology and river stages;
  - (5) Physical conditions at the Phase 2 Tank Site and the Phase 2 Project area as a whole (subject to GC-16);
  - (6) Topography and ground surface conditions; and
  - (7) Equipment and facilities needed preliminary to and during the performance of the Work.

The failure of TANK CONTRACTOR to acquaint itself with any applicable conditions will not relieve TANK CONTRACTOR of the responsibility for properly estimating the difficulties, time or cost of successfully performing TANK CONTRACTOR's obligations under this Tank Contract.

#### **GC-16 DIFFERING SITE CONDITIONS**

- 16.1 If TANK CONTRACTOR encounters Subsurface Soil Conditions that (i) are materially different from the information regarding such Subsurface Soil Conditions as indicated in the Geotechnical Reports (including the encountering of Subsurface Soil Conditions that could not reasonably be anticipated by TANK CONTRACTOR using GECP and based on the information provided in the above Geotechnical Reports) and (ii) adversely affects (a) TANK CONTRACTOR's costs of performance of the Work, or (b) TANK CONTRACTOR's ability to perform any material obligation under this Tank Contract, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES, provided that TANK CONTRACTOR immediately notifies PURCHASER in writing before proceeding with any Work that TANK CONTRACTOR believes constitutes a differing site condition.

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- 16.2 PURCHASER will then investigate such condition and make a written determination. If PURCHASER determines that such condition does constitute a differing site condition, TANK CONTRACTOR may then, pursuant to General Condition 32, titled CHANGES, submit a written proposal for an equitable adjustment setting forth the impact of such differing site condition. Failure of TANK CONTRACTOR to give prompt notice of the differing site condition (in no event shall such notice be given later than ten (10) Days after encountering such condition) shall be grounds for rejection of the claim to the extent PURCHASER is prejudiced by such delay.

#### **GC-17 TITLE TO MATERIALS FOUND**

- 17.1 The title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of TANK CONTRACTOR or any Subcontractor or Subsubcontractor and the right to use said materials or dispose of same is hereby expressly reserved by PURCHASER and its Affiliates. TANK CONTRACTOR may, at the sole discretion of PURCHASER, be permitted, without charge, to use in the Work any such materials that meet the requirements of this Tank Contract.

#### **GC-18 SURVEY CONTROL POINTS AND LAYOUTS**

Prior to the date TANK CONTRACTOR first mobilizes to the Phase 2 Tank Site, PURCHASER will establish on the Site the centerpoint of Tank S-104 and Tank S-105, north arrow and an elevation benchmark, which benchmark shall remain in place for the duration of the Work related to Tank S-104 and Tank S-105. The benchmark shall be located on or near the point designated in the diagram attached hereto as Exhibit "B," Appendix B-13.

- 18.1 TANK CONTRACTOR shall complete the layout of all Work and shall be responsible for execution of the Work in accordance with the centerpoint, north arrow and benchmark, subject to such modifications as PURCHASER may require as Work progresses.
- 18.2 If TANK CONTRACTOR or any Subcontractor or Subsubcontractor moves or destroys or renders inaccurate the centerpoint or benchmark, such center point or benchmark shall be replaced by PURCHASER at TANK CONTRACTOR's expense. No separate payment will be made for survey Work performed by TANK CONTRACTOR.

#### **GC-19 TANK CONTRACTOR'S WORK AREA**

- 19.1 TANK CONTRACTOR's work area shall be the Phase 2 Tank Site, as set forth in the diagram attached hereto as Exhibit "B," Appendix B-13. TANK CONTRACTOR shall confine its operations to the Phase 2 Tank Site. Should TANK CONTRACTOR find it necessary or advantageous to use any additional area off the Phase 2 Tank Site for any purpose whatsoever, TANK CONTRACTOR shall, at its expense, provide and make its own arrangements for the use of such additional off-site areas. TANK



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CONTRACTOR shall not perform any Work at the Phase 1 Site or at any areas of the Phase 2 Site except for the Phase 2 Tank Site or as permitted by PURCHASER in writing.

#### **GC-20 CLEANING UP**

- 20.1 TANK CONTRACTOR shall, at all times, keep the Phase 2 Tank Site in a neat, clean and safe condition. Upon completion of any portion of the Work, TANK CONTRACTOR and any Subcontractors and Subsubcontractors shall promptly remove from the work area all equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of the Work.
- 20.2 Upon completion of the Work and prior to final payment, TANK CONTRACTOR shall at its expense satisfactorily dispose of all rubbish, remove all plant, buildings, equipment and materials belonging to TANK CONTRACTOR, Subcontractors and Subsubcontractors and return to PURCHASER's warehouse or Phase 2 Site storage area all salvageable PURCHASER-supplied materials. TANK CONTRACTOR shall leave the Phase 2 Tank Site in a neat, clean and safe condition.
- 20.3 In event of TANK CONTRACTOR's failure to comply with the foregoing requirements, PURCHASER may accomplish them at TANK CONTRACTOR's expense.

#### **GC-21 COOPERATION WITH OTHERS AND NO INTERFERENCE WITH PHASE 1 FACILITY**

- 21.1 PURCHASER, other contractors and other subcontractors may be working at the Site during the performance of this Tank Contract, and TANK CONTRACTOR's Work or use of certain facilities may be interfered with as a result of such concurrent activities. PURCHASER reserves the right to require TANK CONTRACTOR to schedule the order of performance of the Work in such a manner as will minimize interference with work of any of the parties involved.
- 21.2 Notwithstanding anything to the contrary in the Tank Contract, TANK CONTRACTOR shall perform the Work and TANK CONTRACTOR's other obligations under this Tank Contract so that it does not negatively impact the cost or schedule for development of the Phase 1 Facility or those portions of the Phase 2 Facility not within the scope of this Tank Contract or otherwise interfere with the construction or operation of the Phase 1 Facility. During the performance of the Work or TANK CONTRACTOR's other obligations under this Tank Contract, if an unforeseen situation, other than Force Majeure, arises that could potentially interfere with the operation of the Phase 1 Facility, TANK CONTRACTOR shall provide to PURCHASER, as soon as possible but no later than ten (10) Days prior to the time that TANK CONTRACTOR intends to perform such Work, a written plan listing the potentially interfering Work and proposing in detail how such Work will be performed to avoid interference with the operation of the Phase 1 Facility. Prior to performing such Work, PURCHASER and TANK CONTRACTOR shall mutually agree upon a plan, including an applicable schedule for performance, for TANK CONTRACTOR to execute such Work. If the unforeseen situation was not caused by TANK CONTRACTOR and is not an

item for which TANK CONTRACTOR assumed the risk or bears responsibility, and if compliance by TANK CONTRACTOR with this GC-21.2 causes a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

## **GC-22 RESPONSIBILITY FOR WORK, SECURITY AND PROPERTY**

### **22.1 Work in Progress, Equipment and Material.**

- (1) TANK CONTRACTOR shall be responsible for and shall bear any and all risk of loss or damage to Work (including equipment and materials) pursuant to General Condition 34, titled TITLE AND RISK OF LOSS.

### **22.2 Delivery, Unloading and Storage. TANK CONTRACTOR's responsibility for materials and plant equipment required for the performance of this Tank Contract shall include:**

- (1) Procurement, importation and transportation to and from the Phase 2 Site unless otherwise specified;
- (2) Receiving and unloading;
- (3) Storing in a secure place and in a manner subject to PURCHASER's review. Outside storage of materials and equipment subject to degradation by the elements shall be in weathertight enclosures provided by TANK CONTRACTOR;
- (4) Delivering from storage to construction site all materials and plant equipment as required;
- (5) Maintaining complete and accurate records for PURCHASER's inspection of all materials and plant equipment received, stored and issued for use in the performance of the Tank Contract; and
- (6) LNG in-tank pumps shall be received and stored by PURCHASER or others designated by PURCHASER until required by TANK CONTRACTOR, at which time they shall be delivered to TANK CONTRACTOR.

### **22.3 Security**

- (1) TANK CONTRACTOR shall at all times conduct all operations under this Tank Contract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or any other means to any equipment, materials, Work or other property at the Phase 2 Site. TANK CONTRACTOR shall continuously inspect all equipment, materials and Work to discover and determine any conditions, which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions.

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- (2) TANK CONTRACTOR shall comply with all security requirements for the Phase 1 Facility and the Phase 2 Facility. TANK CONTRACTOR shall cooperate with Management Contractor and PURCHASER on all security matters and shall promptly comply with any and all security arrangements for the Phase 1 Facility or the Phase 2 Facility, including any Operating Plant Procedures. Such compliance with these security requirements shall not relieve TANK CONTRACTOR of its responsibility for maintaining proper security for the above noted items, nor shall it be construed as limiting in any manner TANK CONTRACTOR's obligation with respect to Applicable Law and to undertake reasonable action to establish and maintain secure conditions at the Phase 2 Tank Site. After the approval of the Security Plan in accordance with SC-11, if PURCHASER requires TANK CONTRACTOR to comply with any additional security requirements and they cause a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.
- 22.4 Property. TANK CONTRACTOR shall plan and conduct its operations so as not to:
- (1) Enter upon lands in their natural state unless authorized by PURCHASER;
  - (2) Damage, close or obstruct any utility installation, highway, road or other property until Permits and the permission of PURCHASER therefore have been obtained;
  - (3) Disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch or structure, which if buried or hidden has been identified by PURCHASER, unless otherwise specifically authorized by this Tank Contract; or
  - (4) Damage or destroy cultivated and planted areas, and vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises which, as determined by PURCHASER, do not interfere with the performance of this Tank Contract. This includes damage arising from performance of Work through operation of equipment or stockpiling of materials.
- 22.5 TANK CONTRACTOR shall not be entitled to any extension of time or compensation on account of TANK CONTRACTOR's failure to protect all facilities, equipment, materials and other property as described herein. All costs in connection with any repairs or restoration necessary or required by reason of unauthorized obstruction, damage or use shall be borne by TANK CONTRACTOR, except to the extent such costs arise out of the acts or omissions of PURCHASER, Management Contractor and other Phase 1 or Phase 2 Site contractors and their personnel.

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**GC-23 TANK CONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES**

- 23.1 TANK CONTRACTOR shall provide and use for the Work only such construction plant and equipment as are capable of producing the quality and quantity of work and materials required by this Tank Contract and within the time or times specified in the Tank Contract Milestone Dates and Tank Contract Schedule.
- 23.2 Before proceeding with the Work, TANK CONTRACTOR shall furnish PURCHASER with information and drawings relative to such equipment, plant and facilities as PURCHASER may request. Upon written order of PURCHASER, TANK CONTRACTOR shall discontinue operation of unsatisfactory plant, equipment or facilities and shall either modify the unsatisfactory items or remove such items from the Phase 2 Tank Site.
- 23.3 TANK CONTRACTOR shall, at the time any equipment is moved onto the Phase 2 Tank Site, present to PURCHASER an itemized list of all equipment and tools, including but not limited to power tools, welding machines, pumps and compressors. Said list must include description and quantity, and serial number where applicable. It is recommended that TANK CONTRACTOR identify its equipment by color, decal and etching. Prior to removal of any or all equipment, TANK CONTRACTOR shall clear such removal through PURCHASER. TANK CONTRACTOR shall not remove construction plant, equipment or tools from the Phase 2 Tank Site before the Work is finally accepted, without PURCHASER's written approval.

**GC-24 ILLUMINATION**

- 24.1 When any Work is performed at night or where daylight is obscured, TANK CONTRACTOR shall, at its expense (except for the cost of electricity, which shall be provided by PURCHASER), provide artificial light sufficient to permit Work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of Work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in a safe manner and meet all applicable codes and standards.

**GC-25 USE OF COMPLETED PORTIONS OF WORK**

- 25.1 Whenever, as determined by PURCHASER, any portion of the Work performed by TANK CONTRACTOR is suitable for use prior to RFCD, PURCHASER may provide written notice to TANK CONTRACTOR of PURCHASER's intent to occupy and use such portion of the Work, specifying the time and manner of PURCHASER's intended occupation and use. TANK CONTRACTOR shall respond to PURCHASER's notice of intent to occupy and use such portion of the Work, either agreeing to such occupation and use or providing comments and requesting an alternative time and manner of occupation and use. The Parties shall endeavor to agree on a time and manner of PURCHASER's intended occupation and use of the Work. If the Parties cannot agree, PURCHASER shall have the right to occupy and use such portion of the Work upon giving TANK CONTRACTOR five (5) Days notice of

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- such intended occupation and use. Occupation and use shall not constitute acceptance, relieve TANK CONTRACTOR of its responsibilities, or act as a waiver by PURCHASER of any terms of this Tank Contract.
- 25.2 TANK CONTRACTOR shall not be liable for normal wear and tear or for repair of damage caused by any misuse during such occupancy or use by PURCHASER. If such use increases the cost or time of performance of remaining portions of the Work, TANK CONTRACTOR shall be entitled to seek an equitable adjustment in the Tank Contract Price or Tank Contract Milestone Dates in accordance with General Condition 32, titled CHANGES.
- 25.3 TANK CONTRACTOR shall not use any permanently installed equipment unless PURCHASER approves such use in writing. When such use is approved, TANK CONTRACTOR shall at TANK CONTRACTOR's expense properly use and maintain and, upon completion of such use, recondition such equipment as required to meet specifications.
- 25.4 If PURCHASER exercises its right to occupy and use a portion of the Work under GC-25.1, PURCHASER shall thereafter be responsible for risk of loss or damage to the specific portion of the Work occupied and used by PURCHASER, and unless the Parties agree otherwise, PURCHASER shall be responsible for safety procedures with respect to the specific portion of the Work occupied and used by PURCHASER; provided, however, notwithstanding the foregoing, TANK CONTRACTOR shall remain fully responsible and liable to PURCHASER for its warranty and guarantee obligations under the Tank Contract.
- 25.5 If PURCHASER exercises its rights to access, test or inspect the Work, such activities shall not constitute occupation and use of the Work under this General Condition 25.

**GC-26 USE OF PURCHASER'S CONSTRUCTION EQUIPMENT OR FACILITIES**

- 26.1 Where TANK CONTRACTOR requests PURCHASER and PURCHASER agrees to make available to TANK CONTRACTOR certain equipment or facilities belonging to PURCHASER for the performance of Work under the Tank Contract, the following shall apply:
- (1) Equipment or facilities will be charged to TANK CONTRACTOR at agreed rental rates;
  - (2) PURCHASER will furnish a copy of the equipment maintenance and inspection record and TANK CONTRACTOR shall maintain these records during the rental period;
  - (3) TANK CONTRACTOR shall assure itself of the condition of such equipment and assume all risks and responsibilities during its use;

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- (4) TANK CONTRACTOR shall, as part of its obligation under General Condition 39, titled INDEMNITY, release, defend, indemnify and hold harmless PURCHASER Group from all claims, demands and liabilities arising from the use of such equipment.
  - (5) PURCHASER and TANK CONTRACTOR shall jointly inspect such equipment before its use and upon its return. The cost of all necessary repairs or replacement for damage other than normal wear shall be at TANK CONTRACTOR's expense; and
  - (6) If such equipment is furnished with an operator, the services of such operator will be performed under the complete direction and control of TANK CONTRACTOR and such operator shall be considered TANK CONTRACTOR's employee for all purposes other than the payment of wages, Workers' Compensation Insurance or other benefits.

#### **GC-27 FIRST AID FACILITIES**

- 27.1 Where PURCHASER has first-aid facilities at the Phase 2 Site it may, at its option, make available its first-aid facilities for the treatment of employees of TANK CONTRACTOR who may be injured or become ill while engaged in the performance of the Work under this Tank Contract.
- 27.2 If first-aid facilities and/or services are made available to TANK CONTRACTOR's employees then, in consideration for the use of such facilities and the receipt of such services, TANK CONTRACTOR hereby agrees:
  - (1) To include as part of its obligation under General Condition 39, titled INDEMNITY, the obligation to release, defend, indemnify and hold harmless PURCHASER Group from all claims, demands and liabilities arising from the use of such services or facilities; and
  - (2) In the event any of TANK CONTRACTOR's employees require off-site medical services, including transportation thereto, to promptly pay for such services directly to the providers thereof.

#### **GC-28 INSPECTION, QUALITY SURVEILLANCE, REJECTION OF MATERIALS AND WORKMANSHIP**

- 28.1 All material and equipment furnished and Work performed shall be properly inspected by TANK CONTRACTOR at its expense, and shall at all times be subject to quality surveillance and quality audit by PURCHASER or its authorized representatives who, upon reasonable notice, shall be afforded full and free access to the shops, factories or other places of business of TANK CONTRACTOR and its Subcontractors and Subsubcontractors for such quality surveillance or audit. TANK CONTRACTOR shall provide safe and adequate facilities, drawings, documents and samples as requested, and shall provide assistance and cooperation including stoppage of Work to perform such examination as may be necessary to determine compliance with the requirements of this Tank Contract. Any Work covered

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prior to any necessary quality surveillance or test by PURCHASER, or any surveillance or test of which PURCHASER gave TANK CONTRACTOR reasonable notice, shall be uncovered and replaced at the expense of TANK CONTRACTOR if such covering interferes with or obstructs such inspection or test. Failure of PURCHASER to make such quality surveillance or to discover Defective design, equipment, materials or workmanship shall not relieve TANK CONTRACTOR of its obligations under this Tank Contract nor prejudice the rights of PURCHASER thereafter to reject or require the correction of Defective Work in accordance with the provisions of this Tank Contract.

- 28.2 If any Work is determined by PURCHASER to be Defective or not in conformance with this Tank Contract the provisions of General Condition 37, titled WARRANTY / DEFECT CORRECTION PERIOD shall apply.

#### **GC-29 TESTING**

- 29.1 Unless otherwise provided in the Tank Contract, testing of equipment, materials or Work shall be performed by TANK CONTRACTOR at its expense and in accordance with the requirements of this Tank Contract. Should PURCHASER direct tests in addition to those required by this Tank Contract or re-tests due to no fault of TANK CONTRACTOR, TANK CONTRACTOR will be given reasonable notice to permit such testing. Such additional tests or re-tests will be at PURCHASER's expense.
- 29.2 Upon reasonable notice from PURCHASER, TANK CONTRACTOR shall furnish samples as requested and shall provide reasonable assistance and cooperation necessary to permit tests to be performed on materials or Work in place including reasonable stoppage of Work during testing.

#### **GC-30 EXPEDITING**

- 30.1 The equipment and materials furnished and Work performed under this Tank Contract shall be subject to expediting by PURCHASER or its representatives who shall be afforded full and free access to the shops, factories and other places of business of TANK CONTRACTOR and its Subcontractors and Subsubcontractors for expediting purposes. As required by PURCHASER, TANK CONTRACTOR shall provide detailed schedules and progress reports for use in expediting and shall cooperate with PURCHASER in expediting activities.

#### **GC-31 FORCE MAJEURE**

- 31.1 If TANK CONTRACTOR's performance of this Tank Contract is prevented or delayed by Force Majeure, TANK CONTRACTOR shall, within forty-eight (48) hours of TANK CONTRACTOR's knowledge of any such delay, give to PURCHASER written notice thereof and within seven (7) Days of the giving of such notice, a written description of the anticipated impact of the delay on performance of the Work. Delays attributable to and within the control of TANK CONTRACTOR or any Subcontractor or Subsubcontractor shall be deemed delays within the control of TANK CONTRACTOR. Failure to give any of the above notices shall be sufficient ground for denial of an extension of time.

- 31.2 TANK CONTRACTOR shall demonstrate to PURCHASER its entitlement to such relief under this Article by providing to PURCHASER an updated Tank Contract Schedule using Primavera Project Planner (P3) in its native electronic format with actual durations entered for all activities on the critical path and re-forecasted clearly to indicate TANK CONTRACTOR's entitlement to a time extension under this GC-31. Once provided, TANK CONTRACTOR shall be entitled to an extension to the applicable Target Milestone Date(s) or Tank Contract Milestone Date(s), or both, for delay, if and to the extent (i) such delay or prevention causes a delay in the critical path of the Work; (ii) such delay causes or will cause TANK CONTRACTOR to achieve the applicable Tank Contract Milestone after the applicable Target Milestone Date or Tank Contract Milestone Date; and (iii) TANK CONTRACTOR is unable to proceed with other portions of the Work so as not to cause a delay in the applicable Target Milestone Date and Tank Contract Milestone Date, provided that TANK CONTRACTOR has complied with the notice, Change Order and mitigation requirements of General Condition 32. If TANK CONTRACTOR is entitled to an extension of time for a Force Majeure event, the Parties will execute a Change Order in accordance with General Condition 32, titled CHANGES.
- 31.3 TANK CONTRACTOR will be entitled to an adjustment to the Tank Contract Price for any Force Majeure event that meets the requirements of GC-31.1 and GC-31.2 for reasonable incremental costs necessarily incurred by TANK CONTRACTOR as a result of such event, including the following: (i) to prepare the Work on the Site for a Force Majeure event, (ii) for demobilization from the Site, (iii) for remobilization to the Site, and (iv) delay costs, if any, as a result of a Force Majeure delay, such as stand-by costs, extended overhead costs, and equipment rental; provided that TANK CONTRACTOR shall bear at its own expense the first Two Hundred Fifty Thousand U.S. Dollars (US\$250,000) of such costs with respect to any one Force Majeure event; but provided further that TANK CONTRACTOR shall not be entitled to any time-related costs (such as standby costs and extended overhead costs) unless such Force Majeure event causes or will cause TANK CONTRACTOR to achieve the applicable Tank Contract Milestone after the applicable Tank Contract Milestone Date. To the extent such costs exceed the per occurrence amount stated above, TANK CONTRACTOR shall be entitled to an adjustment of the Tank Contract Price pursuant to General Condition 32, titled CHANGES. If a Force Majeure event causes a complete suspension of all Work that continues for a period of more than one hundred twenty (120) consecutive Days, TANK CONTRACTOR shall have the right to terminate this Agreement upon at least thirty (30) Days prior written notice to PURCHASER, provided however that TANK CONTRACTOR shall not have the right to terminate this Agreement after such 120 Day period if the Parties agree to a Change Order increasing the Tank Contract Price and modifying the Tank Contract Schedule for the costs necessarily incurred due to, and the delay caused by, such Force Majeure event.



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**GC-32 CHANGES**

- 32.1 PURCHASER shall be entitled, without notice to the sureties if any, to make any change in the Work within the general scope of this Tank Contract, including but not limited to changes:
- (1) In the drawings, designs or specifications;
  - (2) In the method, manner, or sequence of TANK CONTRACTOR Work;
  - (3) In PURCHASER-furnished facilities, equipment, materials, services or site(s);
  - (4) Directing acceleration or deceleration in performance of the Work; and
  - (5) Modifying the Tank Contract Schedule or the Tank Contract Milestone Dates.
- 32.2 If PURCHASER desires to make any such change, PURCHASER shall submit to TANK CONTRACTOR a written proposed "Change Order" setting forth the changes it desires to make to this Tank Contract or the Work. TANK CONTRACTOR shall respond in writing to PURCHASER's proposal within thirty (30) Days, if practicable, stating the effect TANK CONTRACTOR contends the proposed change will have on the Tank Contract Price, in accordance with Special Condition 16, titled PRICING OF ADJUSTMENTS, the Target Milestone Dates, and the Tank Contract Milestone Dates. If PURCHASER agrees with TANK CONTRACTOR's statement regarding the effects on the Tank Contract Price, the Target Milestone Dates and the Tank Contract Milestone Dates, the Parties shall execute a Change Order, incorporating the change to the Scope of Work, the Tank Contract Price, the Target Milestone Dates and the Tank Contract Milestone Dates, which Change Order shall amend this Tank Contract and be binding upon the Parties. If PURCHASER does not agree with TANK CONTRACTOR's statement regarding the effects of the proposed change on the Tank Contract Price, the Target Milestone Dates and the Tank Contract Milestone Dates, the Parties shall discuss the change and attempt to negotiate an acceptable Change Order. If the Parties cannot agree to a Change Order, or if PURCHASER desires to have the changed Work commence immediately, PURCHASER may, subject to GC-32.9, issue a unilateral Change Order for the change in the Scope of Work, and TANK CONTRACTOR shall perform at PURCHASER's option the modified Scope of Work on a time and material or cost reimbursable basis, in accordance with Special Condition 16, titled PRICING OF ADJUSTMENTS. Subject to GC-32.9, TANK CONTRACTOR shall perform the Work, as modified by the unilateral Change Order, even if TANK CONTRACTOR considers the change to be a dispute, pending resolution of the dispute. All Change Orders shall be in writing and signed by PURCHASER and TANK CONTRACTOR, and all unilateral Change Orders shall be in writing and signed by PURCHASER.
- 32.3 In addition, in the event of an emergency, which PURCHASER determines endangers life or property, PURCHASER may use oral orders to TANK CONTRACTOR for any Work required by reason of such

emergency. TANK CONTRACTOR shall commence and complete such emergency Work as directed by PURCHASER. The Parties shall memorialize and confirm such orders by Change Order or PURCHASER shall issue a unilateral Change Order for such emergency Work.

- 32.4 In the event of a change in any applicable code or standard which does not constitute a Change in Law, TANK CONTRACTOR shall provide written notice to PURCHASER regarding such change. Upon receipt of such notice from TANK CONTRACTOR and in the event PURCHASER, at its sole option, elects for TANK CONTRACTOR to implement such change in applicable code or standard, PURCHASER may agree to a Change Order with TANK CONTRACTOR in accordance with this General Condition 32, titled CHANGES. In the event PURCHASER does not, at its sole option, elect for TANK CONTRACTOR to implement such change in applicable code or standard, TANK CONTRACTOR shall not be required to perform in accordance with such applicable code or standard.
- 32.5 If at any time TANK CONTRACTOR believes that acts or omissions of PURCHASER constitute a change to the Work not covered by a Change Order (including any delay caused by PURCHASER or any Person acting on behalf of or under the control of PURCHASER), TANK CONTRACTOR shall within ten (10) Days of discovery of such act or omission submit to PURCHASER a written notice and a "Change Order Request" explaining in detail the basis for the request. PURCHASER will either agree to a Change Order or deny the request in writing within thirty (30) Days of the date of receipt of the Change Order Request. If PURCHASER denies the Change Order Request, TANK CONTRACTOR must continue to perform the Work even if it considers the denial a dispute, pending resolution of the dispute.
- 32.6 Any delay by TANK CONTRACTOR in giving notice or presenting Change Order Request under this General Condition 32, titled CHANGES, shall be grounds for rejection of the claim if and to the extent PURCHASER is prejudiced by such delay. In no case shall a claim by TANK CONTRACTOR be considered if asserted after final payment under this Tank Contract.
- 32.7 Failure by PURCHASER and TANK CONTRACTOR to agree on any adjustment shall be a dispute within the meaning of General Condition 33, titled DISPUTES.
- 32.8 TANK CONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for relief, dispute, claim, appeal, or action arising under the Tank Contract, and comply with any decision of PURCHASER.
- 32.9 With the exception of any Tank Contract Price adjustment for the addition of Tank S-106, in no event shall PURCHASER be entitled to issue any unilateral Change Order in accordance with this Article 32 where such unilateral Change Order (i) would result in an increase equal to or exceeding an amount equal to five percent (5%) of the Tank Contract Price as originally set forth in Exhibit "C", or (ii) in conjunction with other unilateral Change Orders issued by PURCHASER (other than any Tank Contract Price adjustment contemplated for Tank S-106), would collectively result in an increase equal to or exceeding an amount equal to ten percent (10%) of the Tank Contract Price as originally set forth in Exhibit "C". For the avoidance of doubt, the Parties agree that the adjustments contemplated under SC-45, and Exhibit C with respect to steel and other material price escalation, do not constitute unilateral Change Orders.

- 32.10 If (a) PURCHASER or any Person acting on behalf of or under the control of PURCHASER, including but not limited to Management Contractor, delays the commencement, prosecution or completion of the Work, and if such delay is not the fault of TANK CONTRACTOR or its Subcontractors or Subsubcontractors but is caused by acts or omissions of any member of PURCHASER Group (including the presence of PURCHASER's Hazardous Materials) or any other Person for whom any member of the PURCHASER Group is responsible, including Management Contractor (hereinafter "PURCHASER-Caused Delay"); (b) PURCHASER orders a change in the scope of the Work in accordance with GC-32.2, provided that a Change Order has been issued; or (c) a section of this Tank Contract expressly provides that TANK CONTRACTOR is entitled to seek relief under this General Condition 32, TANK CONTRACTOR is entitled to relief under this General Condition 32, and TANK CONTRACTOR's compliance with that section causes a delay in or increases the cost of the commencement, prosecution or completion of the Work; then TANK CONTRACTOR shall be entitled to an adjustment in the Tank Contract Price to the extent, if any, permitted under GC-32.10(1), or an extension to the Target Milestone Date(s) and the Tank Contract Milestone Date(s) to the extent, if any, permitted under GC-32.10(2), provided that TANK CONTRACTOR complies with the notice, Change Order Request, and mitigation requirements of this General Condition 32, titled CHANGES. The Parties agree that for purposes of GC-32.10(a) above, TANK CONTRACTOR is not entitled to relief if PURCHASER is performing an act that it is entitled to perform under this Tank Contract, either expressly or by reasonable implication; for avoidance of doubt, such acts include requests to correct Defective Work, inspection of Work and review of documentation. Any adjustments to the Tank Contract Price, the Target Milestone Date(s) or the Tank Contract Milestone Date(s) shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in GC-32, any delay arising out of such change in the Scope of Work and meeting the requirements of this GC-32.10 shall be included in the Change Order incorporating such change in the Scope of Work.
- (1) Compensation: For delays or changes that meet the requirements of GC-32.10, TANK CONTRACTOR shall be entitled to an adjustment to the Tank Contract Price based on the prices specified in SC-16 or, to the extent such costs are not specified in SC-16, for reasonable, additional direct costs, including delay-related costs, incurred by TANK CONTRACTOR, provided that TANK CONTRACTOR shall not be entitled to any adjustments in the Tank Contract Price for delay-related costs unless and to the extent that the delay causes or will cause TANK CONTRACTOR to achieve an applicable Tank Contract Milestone beyond the applicable Tank Contract Milestone Date.
- (2) Time Extension: TANK CONTRACTOR shall be entitled to a time extension to the applicable Target Milestone Date(s) and Tank Contract Milestone Date(s) for delay that meets the requirements of GC-32.10 if and to the extent (i) such delay causes a delay in the critical path of

the Work; (ii) such delay causes or will cause TANK CONTRACTOR to achieve the applicable Tank Contract Milestone after the applicable Target Milestone Date or Tank Contract Milestone Date; and (iii) TANK CONTRACTOR is unable to proceed with other portions of the Work so as not to cause a delay in the applicable Target Milestone Date and Tank Contract Milestone Date. TANK CONTRACTOR shall demonstrate to PURCHASER its entitlement to such relief under this GC-32.10(2) by providing to PURCHASER the current revised and updated Tank Contract Schedule using Primavera Project Planner (P3) in its native electronic format with actual durations entered for all performed activities on the critical path and re-forecasted clearly to indicate TANK CONTRACTOR's entitlement to a time extension under this GC-32.10(2).

32.11 The term "delay" as used in this Tank Contract shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting actual impacts to the time of performance of TANK CONTRACTOR's Work caused by such hindrances, disruptions or obstructions, including inefficiency or lost production.

For the avoidance of doubt, the Parties recognize and agree that a Work activity that is not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, then that Work activity shall be considered a critical path activity for purposes of GC-31 and GC-32.

If TANK CONTRACTOR is entitled to an adjustment in a Target Milestone Date under GC-31.2 or GC-32.10 with respect to a Phase 2 Tank, TANK CONTRACTOR shall be entitled to a similar adjustment in the Tank Contract Milestone Date for such Phase 2 Tank. By way of example only, if TANK CONTRACTOR is entitled to a two (2) Day extension in the Target Milestone Date for a Phase 2 Tank, then TANK CONTRACTOR shall be entitled to a two (2) Day extension in the Tank Contract Milestone Date associated with such Phase 2 Tank. If, however, the last Target Milestone Date has already passed at the time TANK CONTRACTOR is delayed, and if TANK CONTRACTOR can demonstrate to PURCHASER's reasonable satisfaction that TANK CONTRACTOR would have achieved the applicable Tank Contract Milestone in advance of the applicable Tank Contract Milestone Date, PURCHASER shall, in the exercise of its reasonable judgment, agree to an extension to the applicable Tank Contract Milestone Date that preserves for TANK CONTRACTOR's benefit the gap between TANK CONTRACTOR's anticipated completion date for the applicable Tank Contract Milestone and the applicable Tank Contract Milestone Date, provided that TANK CONTRACTOR meets all of the requirements under GC-31.2 (except GC-31.2(ii)) or GC-32.10 (except GC 32.10(2)(ii)), as applicable.

32.12 With respect to GC-31 or GC-32, in no event shall TANK CONTRACTOR be entitled to any adjustment to the Target Milestone Dates, the Tank Contract Milestone Dates or the Tank Contract Price to the extent TANK CONTRACTOR could have taken, but failed to take, reasonable actions to mitigate such cost increase or delay.

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**GC-33 DISPUTES**

- 33.1 Any claim arising out of or attributable to the interpretation or performance of this Tank Contract, which cannot be resolved by negotiation, shall be considered a dispute within the meaning of this clause.
- 33.2 In the event of a dispute, TANK CONTRACTOR or PURCHASER shall notify the other Party in writing that a dispute exists and request or provide a final determination by PURCHASER. Any such request by TANK CONTRACTOR shall be clearly identified by reference to this clause and shall summarize the facts in dispute and TANK CONTRACTOR's proposal for resolution.
- 33.3 PURCHASER shall, within thirty (30) Days of any request by TANK CONTRACTOR, provide a written final determination setting forth the contractual basis for its decision and defining what Tank Contract adjustments it considers equitable. Upon TANK CONTRACTOR's written acceptance of PURCHASER's determination, the Tank Contract will be modified and the determination implemented accordingly or, failing agreement, PURCHASER may in its sole discretion pay such amounts and/or revise the time for performance of the Work in accordance with PURCHASER's final determination.
- 33.4 If TANK CONTRACTOR does not accept PURCHASER's final determination, the dispute shall within thirty (30) Days, be referred to senior executives of the Parties who shall have designated authority to settle the dispute. The Parties shall promptly prepare and exchange memoranda stating the issues in dispute and their respective positions, summarizing the negotiations that have taken place and attaching relevant documents.
- 33.5 The senior executives will meet for negotiations at a mutually agreed time and place. If the dispute has not been resolved within thirty (30) Days of the commencement of such negotiations, the Parties agree to arbitrate the dispute in accordance with Special Condition 31, titled ARBITRATION.

**GC-34 TITLE AND RISK OF LOSS**

- 34.1 Where TANK CONTRACTOR or any Subcontractors or Subsubcontractors fabricate or purchase equipment, materials or other tangible items ("Goods") for incorporation into the Work or any of its separate parts, the title of such Goods shall pass to and be vested in PURCHASER when the first of the following events occurs:
- (1) The Goods or part thereof is first identifiable as being appropriated to the Tank Contract,
  - (2) When PURCHASER pays for the Goods or part thereof in accordance with the Tank Contract, or
  - (3) When the Goods or part thereof are dispatched to or from TANK CONTRACTOR's fabrication yard or to the Phase 2 Tank Site.

Similarly, title to all other portions of the Work shall pass to and be vested in PURCHASER when PURCHASER pays for such Work or part thereof in accordance with the Tank Contract.

- 34.2 All Goods for incorporation into the Work or any of its separate parts, shall be segregated within TANK CONTRACTOR's facilities (except during the fabrication process) and physically identified by tag or marker as property of PURCHASER and as Phase 2 Project materials that will be incorporated into the Work.
- 34.3 TANK CONTRACTOR warrants and guarantees that legal title to and ownership of the Goods and all other Work shall be free and clear of any and all liens, claims, security interests or other encumbrances arising out of the Work when title thereto passes to PURCHASER, and if any such warranty or guarantee is breached, TANK CONTRACTOR shall have the liability and obligations set forth in General Condition 39, titled INDEMNITY.
- 34.4 Such transfer of title in the Goods and other Work will be without prejudice of PURCHASER's right to refuse the Goods and other Work to the extent of TANK CONTRACTOR's negligence in case of non-conformity with the Tank Contract Documents.
- 34.5 Irrespective of transfer of title in the Work (including Goods), the responsibility and risk of loss with respect to all Work (including all Goods) shall be as follows:
- (1) PURCHASER shall add TANK CONTRACTOR as an additional insured on the builder's "all risk" insurance policy obtained by or on behalf of PURCHASER with respect to the Phase 2 Project ("Builder's Risk Insurance");
  - (2) TANK CONTRACTOR shall remain responsible for and have the risk of loss with respect to all Work (including Goods) at the Phase 2 Tank Site for the payment of the deductible on the Builder's Risk Insurance, up to Five Hundred Thousand US Dollars (US\$500,000) per occurrence (with no aggregate cap), regardless of fault, provided that for damage to or loss of the Work caused by wind or flood, as those terms are defined under the Builder's Risk Insurance, TANK CONTRACTOR shall be liable for the deductible up to Two Million US Dollars (US\$2,000,000) per occurrence (with no aggregate cap), regardless of fault. If an occurrence under the Builder's Risk Insurance damages or causes a loss to the Work and to the work of PURCHASER or PURCHASER's Contractors on the Phase 2 Site, TANK CONTRACTOR's liability for payment of the deductible on the Builder's Risk Insurance shall be computed on a pro rata basis, subject to the per occurrence caps set forth above.
  - (3) Work (including Goods) that originates inside the continental United States while in transit within the continental United States and Work stored at off-site locations within the continental United States approved in writing by PURCHASER shall be covered by the Builder's Risk Insurance and shall be subject to the same deductible allocations as set forth in GC-34.5(2).

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- (4) For Work (including Goods) that originates outside the continental United States, TANK CONTRACTOR shall bear full risk of damage and loss to such Work until such Work is delivered to the Phase 2 Site or to an off-site storage location within the continental United States approved in writing by PURCHASER. Notwithstanding any provision of GC-34.5(3) to the contrary, TANK CONTRACTOR's risk of damage and loss under this Section GC-34.5(4) includes transit to the continental United States and transit within the continental United States until such Work first reaches the Phase 2 Site or a PURCHASER-approved off-site storage location within the continental United States.
- (5) After RFCD for a Phase 2 Tank, PURCHASER shall be responsible for and have all risk of loss with respect to such Phase 2 Tank, as between PURCHASER and TANK CONTRACTOR.
- (6) Notwithstanding anything to the contrary in the foregoing, TANK CONTRACTOR shall remain fully responsible and liable to PURCHASER for its warranty and guarantee obligations under the Tank Contract.
- (7) With respect to any damage or loss to the Work (including Goods), Contractor shall be entitled to a Change Order adjusting the applicable Target Milestone Date and Tank Contract Milestone Date if and to the extent permitted under GC-31.
- 34.6 TANK CONTRACTOR shall ensure that the above provisions are imposed upon all Major Subcontractors and Major Subsubcontractors, and shall make all commercially reasonable efforts to ensure that the above provisions are imposed upon all other Subcontractors and Subsubcontractors, and shall execute all documents and take all steps necessary or required by PURCHASER to vest title as PURCHASER may direct.
- 34.7 Title to standard Goods of the type usually bought in bulk such as reinforcement bars, piping materials, non-tagged instruments and instrument installation material, cable and similar items which are not incorporated into the Work shall revert to TANK CONTRACTOR upon agreement by PURCHASER that such Goods are not required for the Work.
- 34.8 With respect to any damage to the Phase 1 Facility, Phase 2 Facility (other than the Work) or any other property of PURCHASER (other than the Work) arising out of the performance of the Work under this Tank Contract, TANK CONTRACTOR shall be responsible and liable to PURCHASER for the deductible under PURCHASER's or its Affiliates property insurance to the extent such damage results from the negligence of TANK CONTRACTOR or its Subcontractors or Subsubcontractors, up to Five Hundred Thousand US Dollars (US\$500,000) per occurrence (with no aggregate cap).

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**GC-35 QUALITY ASSURANCE PROGRAM**

- 35.1 Within thirty (30) Days after Effective Date, TANK CONTRACTOR shall submit a Phase 2 Project Quality Assurance Plan for engineering services and within ninety (90) Days after the Effective Date for fabrication and construction activities, for approval by PURCHASER.
- 35.2 The TANK CONTRACTOR's Phase 2 Project Quality Assurance Plan shall address all activities relevant to the Work and shall demonstrate how all Work performed by TANK CONTRACTOR will conform to the Tank Contract requirements.
- 35.3 The plan shall address the interfaces between PURCHASER, TANK CONTRACTOR, and other relevant organizational entities. The plan shall include an organization chart showing TANK CONTRACTOR's corporate and Phase 2 Project organization responsible for managing, performing and verifying the Work. The organization chart shall be supported with a reporting and functional description of TANK CONTRACTOR's Phase 2 Project organization and identification of the quality related responsibilities of key positions.
- 35.4 The plan shall be updated as necessary throughout the Tank Contract, to reflect any changes to TANK CONTRACTOR's documented quality system.
- 35.5 TANK CONTRACTOR's documented quality system shall provide for the issuance of a "Stop Work" order by TANK CONTRACTOR or PURCHASER at any time during the Work, when significant adverse quality trends and/or deviations from the approved Quality Assurance Plan are found.
- 35.6 PURCHASER reserves the right to perform Quality Assurance Audits of TANK CONTRACTOR's approved Quality Assurance Plan, including Subcontractors and Subsubcontractors, at any stage of the Work.
- 35.7 PURCHASER has outlined basic quality system requirements in Appendix B-1, GENERAL REQUIREMENTS FOR TANK CONTRACTOR QUALITY SYSTEMS. As applicable, TANK CONTRACTOR shall comply with this Appendix B-1.

**GC-36 RECORDS AND AUDIT**

- 36.1 TANK CONTRACTOR shall keep full and detailed books, construction logs, records, daily reports, schedules, accounts, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents ("Books and Records") as may be necessary for proper management under this Tank Contract, as required under Applicable Law or this Tank Contract, and in any way relating to this Tank Contract. TANK CONTRACTOR shall maintain all such Books and Records in accordance with GAAP and shall retain all such Books and Records with respect to each Phase 2 Tank for a minimum period of three (3) years after Final Acceptance for such Phase 2 Tank, or such greater period of time as may be required under Applicable Law.



- 36.2 Upon reasonable notice, PURCHASER shall have the right to have audited, TANK CONTRACTOR's Books and Records by PURCHASER's third party auditors but only to the extent necessary to validate payments made to TANK CONTRACTOR or invoiced by TANK CONTRACTOR on the basis of time and material rates or cost reimbursable basis. With respect to Work performed on a cost reimbursable basis, such audit rights shall not apply to the composition of any mark-ups, unit rates, fixed percentages or multipliers included in this Tank Contract. When requested by PURCHASER, TANK CONTRACTOR shall provide PURCHASER's auditors with reasonable access to all such relevant Books and Records, and TANK CONTRACTOR's personnel shall cooperate with such auditors to effectuate the audit or audits hereunder. PURCHASER shall have the right upon consent of TANK CONTRACTOR (such consent not to be unreasonably withheld or delayed) to have the auditors copy all such Books and Records. TANK CONTRACTOR shall include audit provisions identical to this in all Major Subcontracts and Major Subsubcontracts. No access to Books and Records shall be granted to PURCHASER's auditors until such auditors have signed a confidentiality agreement with TANK CONTRACTOR in accordance with the standard practice in the auditing industry for audits of this kind.
- 36.3 Within a reasonable period of time following a request by PURCHASER, TANK CONTRACTOR shall provide PURCHASER's third party auditors with any information (including Books and Records) regarding quantities and descriptions of any equipment installed on or ordered for the Phase 2 Facility and any other information as PURCHASER's third party auditors may deem reasonably necessary in connection with the preparation of PURCHASER's Tax returns (including information reasonably required to determine the amount of Qualified Research Expenditures incurred in connection with the Work) or other Tax documentation in connection with the Phase 2 Project; provided, however, if, in connection with such preparation, PURCHASER's third party auditors request information relating to the actual cost for any item of Work and such item of Work is included in the Tank Contract Price or in any lump sum Change Order, TANK CONTRACTOR shall provide such information to PURCHASER's third party auditors as provided herein. No access to the aforementioned information (including Books and Records) shall be granted to PURCHASER's auditors until such auditors have signed a confidentiality agreement with PURCHASER in accordance with the standard practice in the auditing industry for audits of this kind.
- 36.4 If PURCHASER establishes uniform codes of accounts for the Phase 2 Project, TANK CONTRACTOR shall use such codes in identifying its records and accounts.
- 36.5 TANK CONTRACTOR shall not, and shall provide that its Subcontractors and Subsubcontractors and agents or employees of any of them shall not, without PURCHASER's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee or officer of PURCHASER or their Affiliates, (ii) favor employees or officers of same with gifts or entertainment of a significant cost or value, or (iii) enter into any business arrangements with employees or officers of same.

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**GC-37 WARRANTY / DEFECT CORRECTION PERIOD**

- 37.1 TANK CONTRACTOR warrants that:
- (1) The Work, including all materials and equipment, and each component thereof, shall be new (unless otherwise specified in this Tank Contract) and of good quality;
  - (2) the Work (including all materials and equipment) shall be in accordance with all of the requirements of this Tank Contract, including in accordance with GECP, Applicable Law and applicable codes and standards; and
  - (3) the Work (including all materials and equipment) shall be free from encumbrances to title.
- 37.2 Should the Phase 2 Facility or any part thereof cease operating due solely to Defects or to corrective actions for Defects, the Defect Correction Period shall be extended by an amount of time equal to the amount of time during which the Phase 2 Facility was not in operation due to such Defects or for the correction of such Defects, subject to the thirty (30) month limitation set forth in GC-37.11.
- 37.3 TANK CONTRACTOR warrants that the written instructions regarding the use of equipment, including those instructions in operation and maintenance manuals, shall conform to this Tank Contract and GECP as of the time such instructions are prepared. If any non-conformance with TANK CONTRACTOR's warranties set forth in this GC-37.3 occurs or is discovered at any time prior to or during the Defect Correction Period, TANK CONTRACTOR shall, at its sole expense, furnish PURCHASER with corrected instructions.
- 37.4 TANK CONTRACTOR shall, without additional cost to PURCHASER, obtain warranties from Major Subcontractors and Major Subsubcontractors that meet or exceed the requirements of this Tank Contract and make all commercially reasonable steps to obtain warranties from all other Subcontractors and Subsubcontractors that meet or exceed the requirements of this Tank Contract; provided, however, TANK CONTRACTOR shall not in any way be relieved of its responsibilities and liability to PURCHASER under this Tank Contract, regardless of whether such Subcontractor or Subsubcontractor warranties meet the requirements of this Tank Contract, as TANK CONTRACTOR shall be fully responsible and liable to PURCHASER for its warranty and correction of Defective Work obligations and liability under this Tank Contract for all Work. All such warranties shall run to the benefit of TANK CONTRACTOR but shall permit TANK CONTRACTOR, prior to assignment to PURCHASER, the right (upon mutual agreement of the Parties), to authorize PURCHASER to deal with Subcontractor or Subsubcontractor on TANK CONTRACTOR's behalf. Such warranties, with duly executed instruments assigning the warranties shall be delivered to PURCHASER concurrent with the end of the Defect Correction Period. This shall not in any way be construed to limit TANK CONTRACTOR's liability under this Tank Contract for the entire Work or its obligation to enforce Subcontractor and Subsubcontractor warranties.

- 37.5 TANK CONTRACTOR's warranties do not provide a remedy, and TANK CONTRACTOR shall have no liability to PURCHASER, for any damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by PURCHASER; (ii) operation, maintenance or use of the Phase 2 Tanks, Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by TANK CONTRACTOR to PURCHASER; (iii) normal wear and tear; (iv) normal corrosion or (v) an event of Force Majeure, to the extent such event of Force Majeure occurs after Provisional Acceptance.
- 37.6 Prior to RFCD, all Work shall be subject to inspection by PURCHASER at all reasonable times to determine whether the Work conforms to the requirements of this Tank Contract. Upon PURCHASER giving reasonable prior notice, TANK CONTRACTOR shall furnish PURCHASER with access to all locations where Work is in progress on the Phase 2 Tank Site and at the offices of TANK CONTRACTOR and its Subcontractors and Subsubcontractors. PURCHASER shall be entitled to provide TANK CONTRACTOR with written notice of any Work that PURCHASER believes does not conform to the requirements of this Tank Contract. If any Work is Defective prior to Provisional Acceptance, then TANK CONTRACTOR shall, at its own expense, correct such Defective Work. If such Defective Work is on the critical path for the Phase 2 Project or otherwise impacts the Phase 1 Facility or any portion of the Phase 2 Project (other than the Phase 2 Tanks), TANK CONTRACTOR shall commence the correction of such Defective Work within a reasonable time but in no event later than the earlier of five (5) Business Days after receipt of notice from PURCHASER or TANK CONTRACTOR's becoming aware of such Defect, and shall diligently perform and complete the correction of such Defective Work using, as necessary, overtime or shifts and expediting the procurement of materials. If TANK CONTRACTOR fails to commence, perform or complete the correction of Defective Work as required by this GC-37.6, then PURCHASER, upon providing written notice to TANK CONTRACTOR, may perform such corrective Work and TANK CONTRACTOR shall be liable to PURCHASER for the reasonable costs incurred by PURCHASER in connection with performing such corrective Work and shall pay PURCHASER within ten (10) Days after receipt of written notice from PURCHASER an amount equal to such costs (or, at PURCHASER's sole discretion, PURCHASER may withhold or offset amounts owed to TANK CONTRACTOR). The cost of disassembling, dismantling or making safe finished Work for the purpose of inspection, and reassembling such portions (and any delay associated therewith) shall be borne by (i) TANK CONTRACTOR, if such Work is found not to conform with the requirements of this Tank Contract, or (ii) by PURCHASER, if such Work is found to conform with the requirements of this Tank Contract.
- 37.7 PURCHASER shall provide TANK CONTRACTOR with a list of witness points for all equipment no later than sixty (60) Days after the Effective Date and PURCHASER shall notify TANK CONTRACTOR which of the witness points it wishes its personnel to witness. TANK CONTRACTOR shall provide PURCHASER with at least fifteen (15) Days prior written notice of the actual scheduled date of each of the tests PURCHASER has indicated it wishes to witness. TANK CONTRACTOR shall cooperate with PURCHASER if PURCHASER elects to witness any additional tests, and TANK CONTRACTOR acknowledges that PURCHASER shall have the right to witness all tests being performed in connection with the Work. Witness points or the timing thereof may vary for each tank and shall be re-submitted by PURCHASER for Tank S-106 if PURCHASER exercises Option 1.

- 37.8 PURCHASER's right to conduct inspections shall not obligate PURCHASER to do so. Neither the exercise of PURCHASER of any such right, nor any failure on the part of PURCHASER to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect. In addition, PURCHASER's acceptance of any Work which is later determined to be Defective shall not in any way relieve TANK CONTRACTOR from its obligations to correct the Work.
- 37.9 If, during the Defect Correction Period, any Work or component thereof is found to be Defective, and PURCHASER provides written notice to TANK CONTRACTOR within the Defect Correction Period regarding such Defect, TANK CONTRACTOR shall, at its sole cost and expense, promptly correct (whether by repair, replacement or otherwise) such Defective Work (the correction of the Defective Work is hereby defined as the "Corrective Work"). Any such notice from PURCHASER shall state with reasonable specificity the date of occurrence or observation of the alleged defect and the reasons supporting PURCHASER's belief that TANK CONTRACTOR is responsible for performing Corrective Work. PURCHASER shall provide TANK CONTRACTOR with access to the Work sufficient to perform its Corrective Work, so long as such access does not unreasonably interfere with operation of the Facility and subject to any reasonable security or safety requirements of PURCHASER and TANK CONTRACTOR. In the event TANK CONTRACTOR utilizes spare parts owned by PURCHASER in the course of performing the Corrective Work, TANK CONTRACTOR shall supply PURCHASER free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by TANK CONTRACTOR as soon as possible following the utilization of such spare parts.
- 37.10 If TANK CONTRACTOR fails to commence the Corrective Work within a reasonable period of time not to exceed ten (10) Business Days, or does not complete such Corrective Work promptly (and provided that PURCHASER provides TANK CONTRACTOR access to the Phase 2 Facility), then PURCHASER, upon providing prior written notice to TANK CONTRACTOR, may perform such Corrective Work, and TANK CONTRACTOR shall be liable to PURCHASER for the reasonable costs incurred by PURCHASER in connection with performing such Corrective Work, and shall pay PURCHASER, within ten (10) Days after receipt of written notice from PURCHASER, an amount equal to such costs (or, at PURCHASER's sole discretion, PURCHASER may withhold or offset amounts owed to TANK CONTRACTOR or collect on the Letter of Credit, if applicable, such costs and expenses); provided, however, if Defective Work discovered during the Defect Correction Period presents an imminent threat to the safety or health of any person and PURCHASER knows of such Defective Work, PURCHASER may perform such Corrective Work in order to correct such Defective Work without giving prior written notice to TANK CONTRACTOR. In such event, TANK CONTRACTOR shall be liable to PURCHASER for the reasonable costs incurred by PURCHASER in connection with performing such Corrective Work, and shall pay PURCHASER, after receipt of written notice from PURCHASER, an amount equal to such costs (or, at PURCHASER's sole discretion, PURCHASER may withhold or offset amounts owed to TANK CONTRACTOR or collect on the Letter of Credit, if applicable, such costs). To the extent any

- Corrective Work is performed by or on behalf of PURCHASER, TANK CONTRACTOR's obligations with respect to such Defective Work that is corrected by on or behalf of PURCHASER shall be relieved, with the exception of TANK CONTRACTOR's obligation to pay PURCHASER the reasonable costs incurred by PURCHASER in connection with performing such Corrective Work.
- 37.11 With respect to any Corrective Work performed by TANK CONTRACTOR, the Defect Correction Period for such Corrective Work shall be extended for an additional one (1) year from the date of the completion of such Corrective Work; provided, however, in no event shall the Defect Correction Period for any Work with respect to a Phase 2 Tank (including Corrective Work) extend beyond thirty (30) months after TANK CONTRACTOR's achievement of Provisional Acceptance for such Phase 2 Tank.
- 37.12 All Corrective Work shall be performed subject to the same terms and conditions under this Tank Contract as the original Work is required to be performed. In connection with the Corrective Work, any change to equipment that would alter the requirements of this Tank Contract may be made only with prior written approval of PURCHASER.
- 37.13 With respect to the Corrective Work, PURCHASER shall provide TANK CONTRACTOR with access to the Phase 2 Tanks sufficient to perform its Corrective Work under this Tank Contract, so long as such access does not unreasonably interfere with operation or construction of the Facility and subject to any reasonable security or safety requirements of PURCHASER and TANK CONTRACTOR. TANK CONTRACTOR shall provide at least one (1) week's notice to PURCHASER if performance of the Corrective Work will interfere with operation or construction of the Facility, in which case PURCHASER may place reasonable limitations on TANK CONTRACTOR's access to the Phase 2 Tanks such that performance of the Corrective Work will minimize disruption to the construction or operation of the Facility resulting from performance of such Corrective Work.
- 37.14 TANK CONTRACTOR shall not be liable to PURCHASER for any Defective Work discovered after the expiration of the Defect Correction Period (as may be extended pursuant to GC-37.2 and GC-37.11), except for any liability of TANK CONTRACTOR pursuant to its indemnification, defense and hold harmless obligations under this Tank Contract but such indemnification defense or hold harmless obligations are not warranty obligations under this section.
- 37.15 The Warranties made in this Tank Contract shall be for the benefit of PURCHASER and its successors and permitted assigns and the respective successors and permitted assigns of any of them, and are fully transferable and assignable.
- 37.16 THE EXPRESS WARRANTIES SET FORTH IN THIS TANK CONTRACT ARE EXCLUSIVE AND NO OTHER WARRANTIES OR CONDITIONS SHALL APPLY. THE PARTIES HEREBY DISCLAIM, AND PURCHASER HEREBY WAIVES ANY AND ALL WARRANTIES IMPLIED UNDER APPLICABLE LAW (INCLUDING THE GOVERNING LAW) INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

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**GC-38 BACKCHARGES**

- 38.1 Upon PURCHASER's written notice to TANK CONTRACTOR, PURCHASER may, in addition to any other amounts to be retained hereunder, retain from any sums otherwise owing to TANK CONTRACTOR amounts sufficient to cover the costs of any of the following:
- (1) TANK CONTRACTOR's failure to comply with any provision of this Tank Contract or TANK CONTRACTOR's acts or omissions in the performance of any part of this Tank Contract, including, but not limited to, violation of Applicable Law, including those regarding safety, Hazardous Materials or environmental requirements;
  - (2) Correction of Defective or nonconforming Work by redesign, repair, rework, replacement or other appropriate means when TANK CONTRACTOR states, or by its actions indicates, that it is unable or unwilling to proceed with corrective action in a reasonable time; and/or
  - (3) PURCHASER agrees to take or perform or, due to TANK CONTRACTOR's failure, elects to take action or perform Work for TANK CONTRACTOR, such as cleanup, off-loading or completion of incomplete Work.
- 38.2 PURCHASER may, if no funds are owing to TANK CONTRACTOR, backcharge TANK CONTRACTOR for Work done or cost incurred to remedy these or any other TANK CONTRACTOR defaults, errors, omissions or failures to perform or observe any part of this Tank Contract.
- 38.3 The cost to correct TANK CONTRACTOR's failure to comply or act as outlined above shall be PURCHASER's documented costs resulting therefrom.
- 38.4 PURCHASER shall separately invoice or deduct from payments otherwise due to TANK CONTRACTOR the costs as provided herein. PURCHASER's right to backcharge is in addition to any and all other rights and remedies provided in this Tank Contract or by Applicable Law. Subject to the limitation of liability and waiver of consequential damages provisions contained herein, the performance of backcharge work by PURCHASER shall not relieve TANK CONTRACTOR of any of its responsibilities under this Tank Contract including but not limited to express warranties, specified standards for quality, contractual liabilities and indemnifications, and meeting the Tank Contract Milestone Dates.

**GC-39 INDEMNITY**

- 39.1 In addition to its indemnification, defense and hold harmless obligations contained elsewhere in this Tank Contract, TANK CONTRACTOR shall indemnify, hold harmless and defend the PURCHASER Group

from any and all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) to the extent that such damages, losses, costs and expenses result from any of the following:

- (1) failure of TANK CONTRACTOR or its Subcontractors or Subsubcontractors to comply with Applicable Law; provided that this indemnity shall be limited to fines and penalties imposed on PURCHASER Group and resulting from the failure of TANK CONTRACTOR or its Subcontractors or Subsubcontractors to comply with Applicable Law;
- (2) any and all damages, losses, costs and expenses suffered by a Third Party and resulting from actual or asserted violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property owned by a Third Party to the extent that such violation or infringement results from performance of the Work by TANK CONTRACTOR or any of its Subcontractors or Subsubcontractors, or any improper use of Third Party confidential information or other Third Party proprietary rights that may be attributable to TANK CONTRACTOR or any of its Subcontractors or Subsubcontractors in connection with the Work;
- (3) failure by TANK CONTRACTOR or any Subcontractor or Subsubcontractor to pay Taxes for which such Party or entity is liable;
- (4) failure of TANK CONTRACTOR to make payments to any Subcontractor or Subsubcontractor in accordance with the respective Subcontract or Subsubcontract, but not extending to any settlement payment made to any Subcontractor or Subsubcontractor against which TANK CONTRACTOR has pending or prospective claims, unless such settlement is made with TANK CONTRACTOR's consent, except after assumption of such Tank Contract by PURCHASER in accordance with GC-45.2; or
- (5) personal injury to or death of any Person (other than employees of TANK CONTRACTOR, or any member of the PURCHASER Group, any employees of Management Contractor or any Subcontractor or Subsubcontractor), and damage to or destruction of property of Third Parties to the extent arising out of or resulting from the negligence in connection with the Work of TANK CONTRACTOR or any Subcontractor or Subsubcontractor or anyone directly or indirectly employed by them.

39.2 ADDITIONAL TANK CONTRACTOR INDEMNIFICATION

39.2.A NOTWITHSTANDING THE PROVISIONS OF GC-39.1 ABOVE, TANK CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE PURCHASER GROUP FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE TANK CONTRACTOR GROUP OR ANY

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SUBCONTRACTOR OR SUBSUBCONTRACTOR, UP TO A MAXIMUM CAP OF ONE MILLION US DOLLARS (US\$1,000,000) FOR DAMAGES AND LOSSES PER OCCURRENCE OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY MEMBER OF THE TANK CONTRACTOR GROUP OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR OCCURRING PRIOR TO PROVISIONAL ACCEPTANCE, IN EACH OF CASES (I) AND (II) OCCURRING IN CONNECTION WITH THE PROJECT, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF ANY MEMBER OF THE PURCHASER GROUP.

39.2.B NOTWITHSTANDING THE PROVISIONS OF GC-39.1 ABOVE, WITH RESPECT TO ANY INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE TANK CONTRACTOR GROUP OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR IN WHICH THE DAMAGES AND LOSSES FROM SUCH INJURY OR DEATH EXCEEDS ONE MILLION US DOLLARS (US\$1,000,000) PER OCCURRENCE, TANK CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE PURCHASER GROUP FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE TANK CONTRACTOR GROUP OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR EXCEPT TO THE EXTENT OF THE NEGLIGENCE OR TORT LIABILITY OF ANY MEMBER OF THE PURCHASER GROUP OR ANY PURCHASER CONTRACTOR WITH RESPECT TO SUCH INJURY OR DEATH.

39.3 PURCHASER INDEMNIFICATION

39.3.A EXCEPT AS OTHERWISE PROVIDED IN GC-34.5 AND GC-34.8, PURCHASER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS TANK CONTRACTOR FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF ANY EMPLOYEES, OFFICERS OR DIRECTORS OF PURCHASER GROUP UP TO A MAXIMUM CAP OF ONE MILLION US DOLLARS (US\$1,000,000) FOR DAMAGES AND LOSSES PER OCCURRENCE, OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF PURCHASER GROUP AND DAMAGE TO OR DESTRUCTION OF THE PHASE 2 TANKS OCCURRING PRIOR TO PROVISIONAL ACCEPTANCE, IN EACH OF CASES (I) AND (II) OCCURRING IN CONNECTION WITH THE PROJECT, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF TANK CONTRACTOR.

39.3.B WITH RESPECT TO ANY INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE PURCHASER GROUP IN WHICH THE DAMAGES AND LOSSES FROM SUCH INJURY OR DEATH EXCEEDS ONE MILLION US DOLLARS (US\$1,000,000) PER OCCURRENCE, PURCHASER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE TANK CONTRACTOR GROUP FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE PURCHASER GROUP



39.4

HAZARDOUS MATERIALS INDEMNIFICATION

A. TANK CONTRACTOR INDEMNIFICATION OBLIGATIONS. TANK CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND PURCHASER GROUP FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING BODILY INJURY, DEATH AND PROPERTY DAMAGE OR DESTRUCTION AND REASONABLE ATTORNEYS' FEES AND LITIGATION OR ARBITRATION EXPENSES) TO THE EXTENT THAT SUCH DAMAGES, LOSSES, COSTS AND EXPENSES RESULT FROM:

1. TANK CONTRACTOR'S OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ON THE SITE BY TANK CONTRACTOR OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR;
2. TANK CONTRACTOR'S OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR'S FAILURE TO STOP WORK IN AN AREA OF THE SITE CONTAINING PRE-EXISTING HAZARDOUS MATERIALS AFTER TANK CONTRACTOR OR SUCH SUBCONTRACTOR OR SUBSUBCONTRACTOR KNOWS SUCH AREA CONTAINS HAZARDOUS MATERIALS;
3. TANK CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUBSUBCONTRACTOR'S DISREGARD OF PURCHASER'S WRITTEN ADVICE AS TO THE NATURE AND SPECIFIC LOCATION OF SUCH HAZARDOUS MATERIALS OR INSTRUCTIONS REGARDING SUCH HAZARDOUS MATERIALS IN PERFORMING WORK IN AREAS THAT CONTAIN OR MAY CONTAIN HAZARDOUS MATERIALS.

B. PURCHASER INDEMNIFICATION OBLIGATIONS. PURCHASER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE TANK CONTRACTOR FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING BODILY INJURY, DEATH AND PROPERTY DAMAGE OR DESTRUCTION AND REASONABLE ATTORNEYS' FEES AND LITIGATION OR ARBITRATION EXPENSES) TO THE EXTENT THAT SUCH DAMAGES, LOSSES, COSTS AND EXPENSES RESULT FROM:

1. ANY PRE-EXISTING HAZARDOUS MATERIALS AT THE PHASE 2 SITE, BUT EXCLUDING ANY DAMAGES, LOSSES, COSTS AND EXPENSES RESULTING FROM: (I) TANK CONTRACTOR'S OR ANY SUBCONTRACTOR OR SUBSUBCONTRACTOR'S FAILURE TO STOP WORK IN AN AREA OF THE SITE CONTAINING PRE-EXISTING HAZARDOUS MATERIALS AFTER TANK CONTRACTOR OR SUCH SUBCONTRACTOR OR SUBSUBCONTRACTOR KNOWS SUCH AREA CONTAINS HAZARDOUS MATERIALS, OR (II) TANK CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUBSUBCONTRACTOR'S DISREGARD OF PURCHASER'S WRITTEN ADVICE AS TO THE NATURE OR SPECIFIC LOCATION OF SUCH HAZARDOUS MATERIALS OR INSTRUCTIONS REGARDING SUCH HAZARDOUS MATERIALS IN PERFORMING WORK IN AREAS THAT CONTAIN OR MAY CONTAIN HAZARDOUS MATERIALS; OR

- 39.5 Should TANK CONTRACTOR or any Subcontractor or Subsubcontractor or any other person, including any construction equipment lessor, acting through or under any of them, file a lien or other encumbrance against all or any portion of the Work, the Phase 2 Site or the Phase 2 Facility, TANK CONTRACTOR shall, at its sole cost and expense, remove or discharge, by payment, bond or otherwise, such lien or encumbrance within twenty-one (21) Days of TANK CONTRACTOR's receipt of written notice from PURCHASER notifying TANK CONTRACTOR of such lien or encumbrance; provided that PURCHASER shall have made payment of all amounts properly due and owing to TANK CONTRACTOR under this Tank Contract, other than amounts disputed. If TANK CONTRACTOR fails to remove or discharge any such lien or encumbrance within such twenty-one (21) Day period in circumstances where PURCHASER has made payment of all amounts properly due and owing to TANK CONTRACTOR under this Tank Contract, other than amounts disputed, then PURCHASER may, in its sole discretion and in addition to any other rights that it has under this Tank Contract, remove or discharge such lien and encumbrance using whatever means that PURCHASER, in its sole discretion, deems appropriate, including the payment of settlement amounts that it determines in its sole discretion as being necessary to remove or discharge such lien or encumbrance. In such circumstance, TANK CONTRACTOR shall be liable to PURCHASER for all damages, costs, losses and expenses (including all reasonable attorneys' fees, consultant fees and arbitration expenses, and settlement payments) incurred by PURCHASER arising out of or relating to such removal or discharge. All such damages, costs, losses and expenses shall be paid by TANK CONTRACTOR no later than thirty (30) Days after receipt of each invoice from PURCHASER.
- 39.6 Not later than fifteen (15) Days after receipt of written notice from the Indemnified Party to the Indemnifying Party of any claims, demands, actions or causes of action asserted against such Indemnified Party for which the Indemnifying Party has indemnification, defense and hold harmless obligations under this Tank Contract, whether such claim, demand, action or cause of action is asserted in a legal, judicial, arbitral or administrative proceeding or action or by notice without institution of such legal, judicial, arbitral or administrative proceeding or action, the Indemnifying Party shall affirm in writing by notice to such Indemnified Party that the Indemnifying Party will indemnify, defend and hold harmless such Indemnified Party and shall, at the Indemnifying Party's own cost and expense, assume on behalf of the Indemnified Party and conduct with due diligence and in good faith the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to such Indemnified Party; provided, however, that such Indemnified Party shall have the right to be represented therein by advisory counsel of its own selection, and at its own expense; and provided further that if the defendants in any such action or proceeding include the Indemnifying Party and an Indemnified Party and the Indemnified Party shall have

reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, such Indemnified Party shall have the right to select up to one separate counsel to participate in the defense of such action or proceeding on its own behalf at the reasonable expense of the Indemnifying Party. In the event of the failure of the Indemnifying Party to perform fully in accordance with the defense obligations under this GC-39.6, such Indemnified Party may, at its option, and without relieving the Indemnifying Party of its obligations hereunder, so perform, but all damages, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses, settlement payments and judgments) so incurred by such Indemnified Party in that event shall be reimbursed by the Indemnifying Party to such Indemnified Party, together with reasonable interest on same from the date any such cost and expense was paid by such Indemnified Party until reimbursed by the Indemnifying Party.

- 39.7 Except as otherwise set forth in GC-39.2.A and GC-39.3.A above, the indemnity, defense and hold harmless obligations for personal injury or death or property damage under this Tank Contract shall apply regardless of whether the Indemnified Party was concurrently negligent (whether actively or passively), it being agreed by the Parties that in this event, the Parties' respective liability or responsibility for such damages, losses, costs and expenses under this Article shall be determined in accordance with principles of comparative negligence.
- 39.8 PURCHASER and TANK CONTRACTOR agree that the Louisiana Oilfield Anti-indemnity Act, LA. Rev. Stat. § 9:2780~~et. seq.~~, is inapplicable to this Tank Contract and the performance of the Work. Application of these code sections to this Tank Contract would be contrary to the intent of the Parties, and each Party hereby irrevocably waives any contention that these code sections are applicable to this Tank Contract or the Work. In addition, it is the intent of the Parties in the event that the aforementioned act were to apply to this Tank Contract that each Party shall provide insurance to cover the losses contemplated by such code sections and assumed by each such Party under the indemnification provisions of this Tank Contract, and TANK CONTRACTOR agrees that the Tank Contract Price (as may be adjusted by Change Order in accordance with General Condition 32, titled CHANGES), compensates TANK CONTRACTOR for the cost of premiums for the insurance provided by it under this Tank Contract. The Parties agree that each Party's agreement to support their indemnification obligations by insurance shall in no respect impair their indemnification obligations.
- 39.9 In the event that any indemnity provisions in this Tank Contract are contrary to the law governing this Tank Contract, then the indemnity obligations applicable hereunder shall be applied to the maximum extent allowed by Applicable Law.
- 39.10 TANK CONTRACTOR specifically waives any immunity provided against its indemnity obligations in this Tank Contract by any industrial insurance or workers' compensation statute.

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**GC-40 PATENT AND INTELLECTUAL PROPERTY INDEMNITY**

- 40.1 TANK CONTRACTOR hereby indemnifies and shall defend and hold harmless PURCHASER Group from and against any and all claims, actions, losses, damages, and expenses, including attorney's fees, arising from any claim, whether rightful or otherwise, that any concept, product, design, equipment, material, process, copyrighted material or confidential information, or any part thereof, furnished by TANK CONTRACTOR under this Tank Contract constitutes an infringement of any patent or copyrighted material or a theft of trade secrets. If use of any part of such concept, product, design, equipment, material, process, copyrighted material or confidential information is limited or prohibited, TANK CONTRACTOR shall, at its sole expense, procure the necessary licenses to use the infringing or a modified but non-infringing concept, product, design, equipment, material, process, copyrighted material or confidential information or, with PURCHASER's prior written approval, replace it with substantially equal but non-infringing concepts, products, designs, equipment, materials, processes, copyrighted material or confidential information; provided, however,
- (1) That any such substituted or modified concepts, products, designs, equipment, material, processes, copyrighted material or confidential information shall meet all the requirements and be subject to all the provisions of this Tank Contract; and
  - (2) That such replacement or modification shall not modify or relieve TANK CONTRACTOR of its obligations under this Tank Contract.
- 40.2 In the event that any violation or infringement for which TANK CONTRACTOR is responsible to indemnify the PURCHASER Group as set forth in GC-39.1 and 40.1 above results in any suit, claim, temporary restraining order or preliminary injunction TANK CONTRACTOR shall, in addition to its obligations under GC-39 and GC-40.1, make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order. If, in any such suit or claim, the Work, the Phase 2 Tanks, or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, TANK CONTRACTOR shall promptly make every reasonable effort to secure for PURCHASER a license, at no cost to PURCHASER, authorizing continued use of the infringing Work. If TANK CONTRACTOR is unable to secure such a license within a reasonable time, TANK CONTRACTOR shall, at its own expense and without impairing performance requirements, either replace the affected Work, in whole or part, with non-infringing components or parts or modify the same so that they become non-infringing.
- 40.3 The foregoing obligation in GC-40.1 shall not apply to concepts, products, designs, equipment, materials, processes, copyrighted materials or confidential information that (i) are ancillary to the core design of the Phase 2 Tanks; (ii) were not, in whole or in part, developed, created or modified by TANK CONTRACTOR; (iii) were provided in writing to TANK CONTRACTOR by PURCHASER; and (iv) are listed in Exhibit E or Exhibit F and apply to the following items:

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Paint specification  
Pipe material specification  
P&IDs  
Electrical Wiring  
Low Voltage Wiring  
Ladder details  
Stair details  
Submerged Loading Pump Specification  
Dry Chemical System  
Gas Detector System  
Control Valves

*provided that* if and to the extent TANK CONTRACTOR enters into any Subcontract or Subsubcontract for the performance of Work based on the designs, specifications or documents listed above; or through the use of licensed subcontractors and vendors or the payment of the proper license fees or royalties, TANK CONTRACTOR could have procured concepts, products, designs, equipment, materials, processes, copyrighted materials or confidential information that did not infringe or violate any Third Party IP; TANK CONTRACTOR's obligations under GC-40.1 remain intact and the exceptions set forth in this GC-40.3 shall not apply.

#### **GC-41 RIGHT TO WORK PRODUCT**

41.1 PURCHASER shall have, and TANK CONTRACTOR hereby grants PURCHASER a permanent, non-exclusive, royalty-free license to use on the Project or any other project of PURCHASER or any of its Affiliates, including without limitation Creole Trail LNG, LP and Corpus Christi LNG, LP, any concept, product, process (patentable or otherwise), copyrighted material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs, and electronic software), and confidential information (i) owned by TANK CONTRACTOR or any Subcontractor or Subsubcontractor upon commencement of the Work under this Tank Contract and used by TANK CONTRACTOR or any Subcontractor or Subsubcontractor in connection with the Project or (ii) furnished or supplied to PURCHASER by, or developed by, TANK CONTRACTOR or any Subcontractor or Subsubcontractor in the course of performance under this Tank Contract in connection

with the Project (collectively the "Work Product"). The foregoing license shall be assignable only to Affiliates of PURCHASER, and the license shall include the right of contractors and subcontractors to use the Work Product on projects of PURCHASER and its Affiliates. Notwithstanding the foregoing, with respect to any construction means and methods processes patented or copyrighted by Zachry, PURCHASER's license to use such Work Product is limited to the Project only.

- 41.2 TANK CONTRACTOR shall identify portions of the Work Product, which contain Third Party Proprietary Work Product for which PURCHASER shall need to obtain permission from the appropriate owners of such Third Party Proprietary Work Product for use by PURCHASER on projects other than the Project. Notwithstanding anything to the contrary in this Tank Contract, no license is granted to PURCHASER with respect to the use of any TANK CONTRACTOR proprietary software or computer systems. With respect to any Third Party Proprietary Work Product that is included in the Work Product, PURCHASER has the same rights as any other Work Product for use on the Project. "Third Party Proprietary Work Product" is intellectual property rights previously owned or developed by TANK CONTRACTOR's Subcontractors or Subsubcontractors outside this Tank Contract or the Subcontracts or Subsubcontracts.
- 41.3 All Work Product, and all copies thereof, shall be returned or delivered to PURCHASER upon the earlier of expiration of the Defect Correction Period and termination of this Tank Contract, except that (i) TANK CONTRACTOR may, subject to its confidentiality obligations set forth in General Condition 43, titled NONDISCLOSURE, retain one record set of the Work Product and may use and modify such Work Product, and (ii) Subcontractors and Subsubcontractors may retain any Work Product generated by them so long as PURCHASER has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets each of fully editable and operable native and .pdf files of documents on CD for all such drawings and specifications.
- 41.4 All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by PURCHASER or any of PURCHASER's other consultants or contractors shall at all times remain the property of PURCHASER, and TANK CONTRACTOR shall not make use of any such documents or other media for any other project or for any other purpose than as set forth herein. All such documents and other media, including all copies thereof, shall be returned to PURCHASER upon the earlier of expiration of the Defect Correction Period and termination of this Tank Contract, except that TANK CONTRACTOR may, subject to its confidentiality obligations as set forth in GC-43, retain one record set of such documents or other media.
- 41.5 In addition, PURCHASER and its Affiliates shall be entitled to modify the Work Product, including TANK CONTRACTOR's intellectual property which may be imbedded in the Work Product in connection with the Project, provided that PURCHASER or its Affiliates shall first remove, or cause to be removed, all references to TANK CONTRACTOR from the Work Product and TANK CONTRACTOR's intellectual property imbedded in the Work Product. PURCHASER shall defend, indemnify and hold TANK CONTRACTOR harmless from and against all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) incurred by TANK CONTRACTOR and caused by any modifications to the Work Product or TANK CONTRACTOR's intellectual property.

- 41.6 If PURCHASER or its Affiliates uses the Work Product on any other project on which neither Diamond (or any of its Affiliates), nor Zachry (or its Affiliates), is a contractor or subcontractor with respect to the design or construction of a LNG tank, then PURCHASER shall indemnify and hold harmless TANK CONTRACTOR with respect to any claims made by third parties for failure of performance, personal injury or property damage due to or with respect to PURCHASER's use of the Work Product on such other project. Before using any Work Product on another project as provided above, PURCHASER will remove from such Work Product any reference to TANK CONTRACTOR.

#### **GC-42 ASSIGNMENTS AND SUBCONTRACTS**

- 42.1 Any TANK CONTRACTOR assignment of this Tank Contract or rights hereunder, in whole or part, without the prior written consent of PURCHASER shall be void.
- 42.2 TANK CONTRACTOR shall not subcontract with any Person for the performance of all or any portion of the Work without the advance written approval of PURCHASER. All Subcontracts and Subsubcontracts, except with Vendors, must include provisions to secure all rights and remedies of PURCHASER provided under this Tank Contract, and must impose upon the Subcontractors and Subsubcontractors all of the duties and obligations required to fulfill this Tank Contract. With respect to Vendors, TANK CONTRACTOR must use commercially reasonable efforts to ensure that all Subcontracts and Subsubcontracts with Vendors include provisions to secure all rights and remedies of PURCHASER provided under this Tank Contract, and impose upon the Subcontractors and Subsubcontractors all of the duties and obligations required to fulfill this Tank Contract, and in any event, all Subcontracts and Subsubcontracts with Vendors must contain provisions to ensure PURCHASER's rights and remedies under this Tank Contract with respect to General Conditions 13, 14, 28, 34, 35, 36, 37, 39, 40, 41 and 43, and Special Conditions 2, 7, 11, 12, 28, 34, 35, 36, 42, and 43.
- 42.3 All Subcontracts and Subsubcontracts shall, so far as reasonably practicable, be consistent with the terms or provisions of this Tank Contract. No Subcontractor or Subsubcontractor is intended to be or shall be deemed a third-party beneficiary of this Tank Contract.
- 42.4 TANK CONTRACTOR shall (i) notify PURCHASER of any proposed Major Subcontractor or Major Subsubcontractor as soon as reasonably practicable during the selection process and furnish to PURCHASER all information reasonably requested with respect to TANK CONTRACTOR's selection criteria, and (ii) notify PURCHASER no less than ten (10) Business Days prior to the execution of a Major Subcontract or Major Subsubcontract with a Major Subcontractor or Major Subsubcontractor. PURCHASER shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Subsubcontractor for a Major Subcontract or Subsubcontract. TANK CONTRACTOR shall not enter into any Major Subcontract or Subsubcontract with a proposed Major

Subcontractor or Major Subsubcontractor that is rejected by PURCHASER in accordance with the preceding sentence. PURCHASER shall undertake in good faith to review the information provided by TANK CONTRACTOR, expeditiously and shall notify TANK CONTRACTOR of its decision to accept or reject a proposed Major Subcontractor or Major Subsubcontractor as soon as practicable after such decision is made. Failure of PURCHASER to accept or reject a proposed Major Subcontractor or Major Subsubcontractor within twenty (20) Business Days shall be deemed to be an acceptance of such Major Subcontractor or Major Subsubcontractor, but PURCHASER's acceptance of a proposed Major Subcontractor or Major Subsubcontractor shall in no way relieve TANK CONTRACTOR of its responsibility for performing the Work in compliance with this Tank Contract.

- 42.5 For any Subcontractor or Subsubcontractor having a Subcontract or Subsubcontract value in excess of One Million U.S. Dollars (US \$1,000,000), TANK CONTRACTOR shall, within fifteen (15) Business Days after the execution of any such Subcontract or Subsubcontract, notify PURCHASER in writing of the selection of such Subcontractor or Subsubcontractor and inform PURCHASER generally what portion of the Work such Subcontractor or Subsubcontractor is performing.
- 42.6 Within ten (10) Days of PURCHASER's request, TANK CONTRACTOR shall furnish PURCHASER with a copy of any Subcontract or Subsubcontract, excluding provisions regarding pricing, discount or credit information, payment terms, payment schedules, retention, performance security, bid or proposal data, and any other information which TANK CONTRACTOR or any Subcontractor or Subsubcontractor reasonably considers to be commercially sensitive information.
- 42.7 In addition to the requirements above and without in any way relieving TANK CONTRACTOR of its full responsibility to PURCHASER for the acts and omissions of Subcontractors and Subsubcontractors, each Major Subcontract and Major Subsubcontract shall contain the following provisions:
- “This Subcontract [Subsubcontract] and any subcontract between Subcontractor [Subsubcontractor] and any of its lower-tier subcontractors may be assigned to PURCHASER without the consent of Subcontractor [Subsubcontractor] or any of its lower-tier subcontractors provided, however, with respect to each construction equipment rental or lease agreement, Subcontractor [Subsubcontractor] shall only be obligated to use its best efforts to include a provision that such agreement may be assigned to PURCHASER without the consent of the respective construction equipment lessor; and so far as reasonably practicable, the Subcontractor [Subsubcontractor] shall comply with all requirements and obligations of TANK CONTRACTOR to PURCHASER under their agreement, as such requirements and obligations are applicable to the performance of the Work under the respective Subcontract [Subsubcontract].”
- 42.8 PURCHASER may, for the purpose of providing collateral, assign, pledge and/or grant a security interest in this Tank Contract to any Lender without TANK CONTRACTOR's consent. When duly assigned in accordance with the foregoing, this Tank Contract shall be binding upon and shall inure to the benefit of the assignee; provided that any assignment by PURCHASER pursuant to this GC-42.8 shall not relieve PURCHASER of any of its obligations or liabilities under this Tank Contract.



- 42.9 PURCHASER may assign this Tank Contract to any of its Affiliates by providing written notice to TANK CONTRACTOR. When duly assigned in accordance with the foregoing, this Tank Contract shall be binding upon and shall inure to the benefit of the assignee, and all obligations of PURCHASER shall become obligations of the assignee. Except as provided above and in GC-42.8, neither party may assign this Tank Contract to another party without prior written consent of the other Party hereto. When duly assigned in accordance with the foregoing, this Tank Contract shall be binding upon and shall inure to the benefit of the assignee, and all obligations of the assigning party shall become obligations of the assignee. No such assignment shall relieve the other Party of any of its obligations or liabilities under this Tank Contract, unless consent in writing to such assignment has been provided.
- 42.10 Any assignment not in accordance with this Article shall be void and without force or effect, and any attempt to assign this Tank Contract in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Tank Contract at its option for default.
- 42.11 Any assignment by TANK CONTRACTOR shall not relieve TANK CONTRACTOR of any of its obligations or liabilities under this Tank Contract.
- 42.12 This Tank Contract shall be binding upon the Parties hereto, their successors and permitted assigns.
- 42.13 If the Tank Contract is assigned by PURCHASER, the term "PURCHASER Group" shall nevertheless include (i) Sabine Pass LNG, L.P. and its parent, Lender and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above.

#### **GC-43 NONDISCLOSURE**

- 43.1 Subject to GC-43.4, TANK CONTRACTOR agrees not to divulge to any Persons, without the written consent of PURCHASER, any information obtained from or through PURCHASER or its Affiliates in connection with the performance of this Tank Contract unless;
- (1) The information is known to TANK CONTRACTOR prior to obtaining the same from PURCHASER;
  - (2) The information is, at the time of disclosure by TANK CONTRACTOR, then in the public domain; or
  - (3) The information is obtained by TANK CONTRACTOR from a Third Party who did not receive same, directly or indirectly from PURCHASER and who has no obligation of secrecy with respect thereto.

- 43.2 Subject to GC-43.4, TANK CONTRACTOR further agrees that it will not, without the prior written consent of PURCHASER, disclose to any Person any information developed or obtained by TANK CONTRACTOR in the performance of this Tank Contract except to the extent that such information falls within one of the categories described in (1) through (3) of GC-43.1 above.
- 43.3 If so requested by PURCHASER, TANK CONTRACTOR further agrees to require its employees to execute a nondisclosure agreement prior to performing any Work under this Tank Contract.
- 43.4 Prior to disclosing any information that is covered by the confidentiality obligations in this GC-43 to any Subcontractor or Subsubcontractor as necessary to perform the Work, TANK CONTRACTOR shall bind such Subcontractor or Subsubcontractor to the confidentiality obligations contained in GC-43. Nothing in GC-43 or this Tank Contract shall in any way prohibit TANK CONTRACTOR or any of its Subcontractors or Subsubcontractors from making commercial or other use of, selling, or disclosing any of their respective intellectual property owned prior to the Effective Date (including any Third Party Proprietary Work Product).
- 43.5 The Parties acknowledge that in the event of a breach of any of the terms contained in GC-43, PURCHASER would suffer irreparable harm for which remedies at law, including damages, would be inadequate, and that PURCHASER shall be entitled to seek equitable relief therefor by injunction, without the requirement of posting a bond.
- 43.6 The confidentiality obligations of GC-43 shall expire upon the earlier of a period of ten (10) years following (i) the termination of this Tank Contract or (ii) Final Acceptance of the last of the Phase 2 Tanks.

#### **GC-44 SUSPENSION**

- 44.1 PURCHASER may by written notice to TANK CONTRACTOR, suspend at any time the performance of all or any portion of the Work to be performed under the Tank Contract. Upon receipt of such notice, TANK CONTRACTOR shall, unless the notice requires otherwise:
- (1) Immediately discontinue Work on the date and to the extent specified in the notice;
  - (2) Place no further orders or subcontracts for material, services, or facilities with respect to suspended Work other than to the extent required in the notice;
  - (3) Promptly make every reasonable effort to obtain suspension upon terms satisfactory to PURCHASER of all orders, Subcontracts, Subsubcontracts and rental agreements to the extent they relate to performance of suspended Work;
  - (4) Continue to protect and maintain the Work including those portions on which Work has been suspended; and

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- (5) Take any other reasonable steps to minimize costs associated with such suspension.

PURCHASER shall give TANK CONTRACTOR instructions during suspension whether to maintain its staff and labor on or near the Phase 2 Tank Site and otherwise be ready to proceed expeditiously with the Work as soon as reasonably practicable after receipt of PURCHASER's further instructions. Unless otherwise instructed by PURCHASER, TANK CONTRACTOR shall during any such suspension maintain its staff and labor on or near the Phase 2 Tank Site and otherwise be ready to proceed expeditiously with the Work as soon as reasonably practicable after receipt of PURCHASER's further instructions.

- 44.2 Upon receipt of notice to resume suspended Work, TANK CONTRACTOR shall immediately resume performance under this Tank Contract to the extent required in the notice.
- 44.3 If TANK CONTRACTOR intends to assert a claim for equitable adjustment under this clause it must, pursuant to General Condition 32, titled CHANGES and within ten (10) Days after receipt of notice to resume Work, submit the required written notification of claim and within twenty (20) Days thereafter its written proposal setting forth the impact of such claim. This GC-44.3 shall not apply in the event a suspension is ordered by PURCHASER due to a Force Majeure event.
- 44.4 In no event shall TANK CONTRACTOR be entitled to any additional profits or damages due to such suspension.

#### **GC-45 TERMINATION FOR DEFAULT**

- 45.1 Notwithstanding any other provisions of this Tank Contract, TANK CONTRACTOR shall be considered in default of its contractual obligations under this Tank Contract if it:
- (1) Performs Work which fails materially to conform to the requirements of this Tank Contract;
  - (2) Fails to make progress according to the agreed-upon Tank Contract Schedule so as to endanger performance of this Tank Contract;
  - (3) Abandons or refuses to proceed with any of the Work, including modifications directed pursuant to General Condition 32, titled CHANGES;
  - (4) Fails to fulfill or comply with any of the other material terms of this Tank Contract;
  - (5) Fails to commence the Work in accordance with the provisions of this Tank Contract;
  - (6) Abandons the Work;
  - (7) Fails to maintain insurance required under this Tank Contract;

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- (8) Materially disregards Applicable Law or applicable standards and codes;
- (9) Engages in behavior that is dishonest, fraudulent or constitutes a conflict with TANK CONTRACTOR's obligations under this Tank Contract; or if
- (10) TANK CONTRACTOR suffers an Insolvency Event or makes a general assignment for the benefit of creditors.
- 45.2 Upon the occurrence of any of the foregoing, PURCHASER may notify TANK CONTRACTOR in writing that TANK CONTRACTOR is in default of this Tank Contract, and such notice shall include a general description of the nature of TANK CONTRACTOR's default. With respect to any default in GC-45.1(1) – (9),
- (i) if TANK CONTRACTOR does not cure any such default within thirty (30) Days after receipt of notification of such default, or
- (ii) if such default cannot be cured within such thirty (30) Day period through the diligent exercise of all commercially practicable efforts and TANK CONTRACTOR either fails to diligently exercise all commercially practicable efforts to cure such condition or fails to cure such condition within ninety (90) Days after receipt of such notification of such default,
- PURCHASER may, by written notice to TANK CONTRACTOR and without notice to TANK CONTRACTOR's sureties, if any, terminate in whole or in part this Tank Contract, and PURCHASER may prosecute the Work to completion by contract or by any other method deemed expedient. If TANK CONTRACTOR's default is due to an Insolvency Event as addressed in subsection (10) above in clause GC-45.1, PURCHASER may, by written notice to TANK CONTRACTOR and without notice to TANK CONTRACTOR's sureties, if any, immediately terminate in whole or in part this Tank Contract, and PURCHASER may prosecute the Work to completion by contract or by any other method deemed expedient. In addition, upon the occurrence of any default by TANK CONTRACTOR, after the expiration of the applicable cure period provided above, PURCHASER may take possession of and utilize any data, designs, Work Product, licenses, materials, equipment, and tools furnished by TANK CONTRACTOR or Subcontractors or Subsubcontractors and necessary to complete the Work, hire any or all of TANK CONTRACTOR's employees and take assignment of any or all of the Subcontracts and Subsubcontracts. TANK CONTRACTOR's construction equipment and tools shall be returned upon completion of the Work, except to the extent title to such construction equipment and tools passed to PURCHASER under General Condition 34, titled TITLE AND RISK OF LOSS. Notwithstanding the foregoing, PURCHASER shall not be entitled to terminate TANK CONTRACTOR for delay in achieving Mechanical Completion for a Phase 2 Tank during the first three (3) months after the Tank Contract Milestone Date for such Phase 2 Tank; *provided that* PURCHASER shall be entitled to terminate TANK CONTRACTOR prior to the expiration of such three (3) month period if (i) TANK CONTRACTOR is not paying to PURCHASER when owed Liquidated Damages during such three (3) month period or TANK

CONTRACTOR is not diligently performing the Work and (ii) PURCHASER is otherwise entitled to terminate TANK CONTRACTOR under this GC-45.2. In addition, PURCHASER shall not be entitled to terminate TANK CONTRACTOR for anticipatory delay in achieving Mechanical Completion with respect to a Phase 2 Tank unless, based on the current progress of the Work, TANK CONTRACTOR is projected to achieve Mechanical Completion for such Phase 2 Tank three (3) months or more beyond the Tank Contract Milestone Date for such Phase 2 Tank, *provided that* PURCHASER shall be entitled to terminate TANK CONTRACTOR at any time if TANK CONTRACTOR is not diligently performing the Work and PURCHASER is otherwise entitled to terminate TANK CONTRACTOR under this GC-45.2.

- 45.3 Notwithstanding the preceding subclauses, PURCHASER may immediately terminate this Tank Contract for default if TANK CONTRACTOR's breach of its material contractual obligations is considered not curable or for failure to cure material safety violations after written notice by PURCHASER.
- 45.4 TANK CONTRACTOR shall be liable for all costs in excess of the Tank Contract Price for such terminated Work reasonably and necessarily incurred in the completion of the Work, including acceleration in order to attempt to achieve the Tank Contract Milestone Dates for each Phase 2 Tank, or to attempt to make-up for or reduce delay caused by TANK CONTRACTOR; attorneys' fees; consultant fees and cost of administration of any purchase order or subcontract awarded to others for completion; subject to the limitation of liability and waiver of consequential damages provisions of this Tank Contract.
- 45.5 In addition to the amounts recoverable GC-45.4, PURCHASER shall be entitled to recover Liquidated Damages owed by TANK CONTRACTOR to PURCHASER under this Tank Contract up to the date of termination. The damages recoverable under GC-45.4 and this GC-45.5 are the sole and exclusive delay-related damages that PURCHASER may recover from TANK CONTRACTOR in the event of a termination for default.
- 45.6 Upon termination for default, TANK CONTRACTOR shall:
- (1) Immediately discontinue Work on the date and to the extent specified in the notice and place no further Subcontracts to the extent that they relate to the performance of the terminated Work;
  - (2) Upon PURCHASER's written instructions, either promptly obtain cancellation upon terms satisfactory to PURCHASER of all Subcontracts, Subsubcontracts, and any other agreements existing for performance of the terminated Work or assign those agreements as directed by PURCHASER or assign such agreements to PURCHASER in accordance with GC-45.2 above;
  - (3) Cooperate with PURCHASER in the transfer of data, designs, licenses and information and disposition of Work in progress so as to mitigate damages;
  - (5) Comply with other reasonable requests from PURCHASER regarding the terminated Work; and

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- (6) Continue to perform in accordance with all of the terms and conditions of this Tank Contract such portion of the Work that is not terminated.
- 45.7 If, after termination pursuant to this clause, it is determined for any reason that TANK CONTRACTOR was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to General Condition 46, titled OPTIONAL TERMINATION.
- 45.8 Notwithstanding any other provisions of this Tank Contract, PURCHASER shall be considered in default of its contractual obligations under this Tank Contract, if it fails to make any payment of any undisputed amount to TANK CONTRACTOR as required by the Tank Contract.
- (1) If PURCHASER fails to pay any undisputed amount due and owing to TANK CONTRACTOR and such failure continues for more than thirty (30) Days after the due date for such payment, then TANK CONTRACTOR may suspend performance of the Work until TANK CONTRACTOR receives such undisputed amounts. Prior to any such suspension, TANK CONTRACTOR shall provide PURCHASER with at least fourteen (14) Days' prior notice of its intent to suspend performance of the Work. TANK CONTRACTOR shall be entitled to a Change Order on account of any suspension in accordance with this section.
- (2) If PURCHASER does not cure such failure within 30 Days after receipt of the notification in GC-45.8(1), or fails to provide satisfactory evidence that such default will be corrected within 90 Days, TANK CONTRACTOR may, by written notice to PURCHASER, terminate in whole or in part this Tank Contract. This termination remedy does not limit any other rights or remedies available to TANK CONTRACTOR under this Tank Contract.

#### **GC-46 OPTIONAL TERMINATION**

- 46.1 PURCHASER may, at its option, terminate for convenience any of the Work under this Tank Contract in whole or in part, at any time, or from time to time, by written notice to TANK CONTRACTOR. Such notice shall specify the extent to which the performance of the Work is terminated and the effective date of such termination. Upon receipt of such notice TANK CONTRACTOR shall:
- (1) Immediately discontinue the Work on the date and to the extent specified in the notice and not enter into or place any further Subcontracts or Subsubcontracts other than as may be required for completion of such portion of the Work that is not terminated;
- (2) Promptly obtain assignment or cancellation upon terms satisfactory to PURCHASER of all Subcontracts and Subsubcontracts existing for the performance of the terminated Work or assign those agreements as directed by PURCHASER;

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- (3) Assist PURCHASER in the maintenance, protection, and disposition of Work in progress, plant, tools, equipment, property, and materials acquired by TANK CONTRACTOR or furnished by PURCHASER under this Tank Contract; and
- (4) Complete performance of such portion of the Work that is not terminated.
- 46.2 Upon any such termination, TANK CONTRACTOR shall waive any claims for damages, including loss of anticipated profits on account thereof (except as provided in GC-46.2(6)), but as the sole right and remedy of TANK CONTRACTOR, PURCHASER shall pay in accordance with the following:
- (1) The Tank Contract Price corresponding to the Work performed in accordance with this Tank Contract prior to such notice of termination (including Change Orders);
- (2) All reasonable costs for Work thereafter performed as specified in such notice;
- (3) Reasonable administrative costs of settling and paying claims arising out of the termination of Work under Subcontracts or Subsubcontracts;
- (4) Reasonable costs incurred in demobilization and the disposition of residual material, plant and equipment;
- (5) A reasonable overhead and profit on items (2) through (4) of this clause;
- (6) A sum equal to five percent (5%) of the balance of the unpaid Tank Contract Price at the time of termination pursuant to this General Condition 46, but such sum shall not in any event exceed Four Million U.S. Dollars (US\$4,000,000); and
- (7) Less all payments made prior to termination.
- 46.3 TANK CONTRACTOR shall submit within thirty (30) Days after receipt of notice of termination, a written statement setting forth its proposal for an adjustment to the Tank Contract Price to include only the incurred costs described in this clause. PURCHASER shall review, analyze, and verify such proposal, and negotiate an equitable adjustment, and the Tank Contract shall be modified accordingly.

#### **GC-47 ACCEPTANCE AND COMPLETION**

- 47.1 TANK CONTRACTOR shall complete all the Work so that it shall, in every respect, be complete in accordance with the Tank Contract Milestone Dates contained in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
- 47.2 "Mechanical Completion." Mechanical Completion for each Phase 2 Tank is defined as "Ready For Cool Down (RFCD)," which means that all of the following have occurred: (i) TANK CONTRACTOR has

completed all applicable Work for such Phase 2 Tank, other than punch-list Work, in accordance with the requirements contained in this Tank Contract, (ii) such Phase 2 Tank is ready for use to receive and dispatch LNG and Natural Gas so that the Cool Down phase can commence; and (iii) TANK CONTRACTOR has delivered to PURCHASER a Notice of Mechanical Completion for such Phase 2 Tank, certifying Mechanical Completion of such Phase 2 Tank, and PURCHASER has accepted such Notice of Mechanical Completion in writing. Such notice shall not be given unless all Tank Contract requirements have been met or expressly waived in writing, in whole or in part, by PURCHASER. Prior to PURCHASER's acceptance of the Notice of Mechanical Completion, the Parties shall agree on the punch-list Work remaining to be completed. PURCHASER shall be entitled to add to the punch-list after achievement of Mechanical Completion.

47.3

"Provisional Acceptance." TANK CONTRACTOR shall achieve Provisional Acceptance, and the Provisional Acceptance Certificate for each Phase 2 Tank will be issued by PURCHASER, only after all of the following have occurred: (i) all requirements for Mechanical Completion have been met; (ii) all punch-list items and other obligations of TANK CONTRACTOR required by this Tank Contract have been fulfilled (excluding TANK CONTRACTOR's warranty obligations); and (iii) each of the respective Phase 2 Tanks has achieved Cool Down. If the Parties add Tank S-106 to this Tank Contract by Change Order, TANK CONTRACTOR is not required to give Final Unconditional Lien and Claim Waivers or demobilize from the Phase 2 Tank Site to achieve Provisional Acceptance of Tank S-104 and Tank S-105.

- (1) TANK CONTRACTOR shall provide PURCHASER with at least sixty (60) Days notice prior to the date TANK CONTRACTOR expects to achieve RFCD with respect to a Phase 2 Tank, and in such notice TANK CONTRACTOR shall specify the date on which it expects to achieve RFCD for that Phase 2 Tank.
- (2) PURCHASER will provide sufficient LNG to achieve Cool Down no later than thirty (30) Days after the later of (i) the date specified in TANK CONTRACTOR's notice in GC-47.3(1), or (ii) the date TANK CONTRACTOR achieves RFCD for the respective Phase 2 Tank.
- (3) TANK CONTRACTOR shall provide training to PURCHASER's personnel prior to beginning Cool Down.
- (4) TANK CONTRACTOR shall observe and provide technical assistance to PURCHASER as PURCHASER conducts the Cool Down process, for the purpose of assisting PURCHASER's personnel in following TANK CONTRACTOR's Cool Down specifications and answering technical questions with respect to the Phase 2 Tanks relative to the Cool Down process.
- (5) After RFCD for each Phase 2 Tank, PURCHASER shall have custody of such Phase 2 Tank and has the right to operate such Phase 2 Tank.



- 47.4 "Final Acceptance." Final Acceptance shall be on an individual Phase 2 Tank basis. Upon the completion of all of the Work with respect to a Phase 2 Tank, including without limitation fulfillment of all Provisional Acceptance requirements for such Phase 2 Tank and the expiration of warranties as specified in General Condition 37, titled WARRANTY / DEFECT CORRECTION PERIOD and fulfillment of all TANK CONTRACTOR obligations related thereto, including correction of any and all Defects in the Work and the cure of any breach of TANK CONTRACTOR's warranties or guarantees, and provided the Provisional Acceptance Certificates have been issued by PURCHASER for such Phase 2 Tank, PURCHASER shall issue a Final Acceptance Certificate with respect to such Phase 2 Tank.
- 47.5 No acceptance by PURCHASER of any or all of the Work or any other obligations of TANK CONTRACTOR under this Tank Contract, including acceptance of Mechanical Completion, RFCD, Provisional Acceptance or Final Acceptance shall in any way release TANK CONTRACTOR of any obligations or liability pursuant to this Tank Contract, including obligations with respect to unperformed obligations of this Tank Contract or for any Work that does not conform to the requirements of this Tank Contract, including warranty obligations, any liabilities for which insurance is required or any other responsibility of Tank Contractor. The Parties agree that this provision is not intended to and does not expand TANK CONTRACTOR's obligations under this Tank Contract.

#### **GC-48 COOPERATION WITH LENDER**

- 48.1 In addition to other assurances provided in this Tank Contract, TANK CONTRACTOR acknowledges that PURCHASER intends to obtain project financing associated with the Project and TANK CONTRACTOR agrees to cooperate with PURCHASER and Lender in connection with such project financing, including entering into direct agreements with Lender, as required by Lender, covering matters that are customary in project financings of this type such as Lender assignment or security rights with respect to this Agreement, direct notices to Lender and its independent engineer, step-in/step-out rights, execution of consent agreements, opinions of counsel, access by Lender's representative, including its independent engineer, and other matters applicable to such project financing. In addition, TANK CONTRACTOR agrees to amend this Tank Contract if reasonably requested by Lender, provided that TANK CONTRACTOR shall not be required to agree to any amendments that have a material impact on any of its obligations or liabilities hereunder. If such cooperation by TANK CONTRACTOR, under this GC-48.1, causes a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to an adjustment to the Tank Contract Price if and to the extent permitted under General Condition 32, titled CHANGES.
- 48.2 TANK CONTRACTOR and Guarantor, shall, within fourteen (14) Days after the Effective Date, enter into mutually acceptable forms of consent and agreement with the Collateral Agent. TANK CONTRACTOR shall cooperate in considering appropriate and reasonable amendments to the form of consent and agreement as such amendments may be proposed by Lender or its counsel. TANK CONTRACTOR and Guarantor shall, within fourteen (14) Days after the Effective Date, provide opinions of counsel reasonably acceptable to the Collateral Agent, including opinions on corporate matters,

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including due authorization and execution, and enforceability of the Tank Contract and guarantee agreement, respectively. TANK CONTRACTOR acknowledges and agrees that PURCHASER's issuance of the NTP is contingent upon obtaining project financing in connection with this Project or other forms of financing.

#### **GC-49 ENGINEERING AND DESIGN RESPONSIBILITIES OF TANK CONTRACTOR**

49.1 See Special Condition 3, titled DESIGN CRITERIA, DRAWINGS AND SPECIFICATIONS.

#### **GC-50 NON-WAIVER**

50.1 Failure by either Party to insist upon strict performance by the other Party of any terms or conditions of this Tank Contract, or failure or delay by either Party to exercise any rights or remedies provided herein or by Applicable Law, or failure by either Party to properly notify the other Party in the event of breach by the other Party, or the acceptance of or payment by PURCHASER for any Work hereunder, or the review or failure to review by PURCHASER of designs shall not release either Party from any of the warranties or obligations of this Tank Contract and shall not be deemed a waiver of any right of the other Party to insist upon strict performance hereof or any of its rights or remedies as to any prior or subsequent default hereunder nor shall any termination under this Tank Contract operate as a waiver of any of the terms hereof.

#### **GC-51 SEVERABILITY**

51.1 The provisions of this Tank Contract are severable. If any provision shall be determined to be illegal or unenforceable, such determination shall have no effect on any other provision hereof, and the remainder of the Tank Contract shall continue in full force and effect so that the purpose and intent of this Tank Contract shall still be met and satisfied.

#### **GC-52 SURVIVAL**

52.1 All terms, conditions and provisions of this Tank Contract, which by their nature are independent of the period of performance, shall survive the cancellation, termination, expiration, default or abandonment of this Tank Contract.

#### **GC-53 EQUAL EMPLOYMENT OPPORTUNITY**

53.1 TANK CONTRACTOR is aware of, and is fully informed of TANK CONTRACTOR's obligations under Executive Order 11246 and, where applicable, shall comply with the requirements of such Order and all orders, rules, and regulations promulgated thereunder unless exempted therefrom.

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- 53.2 Without limitation of the foregoing, TANK CONTRACTOR's attention is directed to 41 Code of Federal Regulations (CFR), Section 60-1.4, and the clause titled "Equal Opportunity Clause" which, by this reference, is incorporated herein.
- 53.3 TANK CONTRACTOR is aware of and is fully informed of TANK CONTRACTOR's responsibilities under Executive Order No. 11701 "List of Job Openings for Veterans" and, where applicable, shall comply with the requirements of such Order and all orders, rules and regulations promulgated thereunder unless exempted therefrom.
- 53.4 Without limitation of the foregoing, TANK CONTRACTOR's attention is directed to 41 CFR Section 60-250 et seq. and the clause therein titled "Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era", which by this reference, is incorporated herein.
- 53.5 TANK CONTRACTOR certifies that segregated facilities, including but not limited to washrooms, work areas and locker rooms, are not and will not be maintained or provided for TANK CONTRACTOR's employees. Where applicable, TANK CONTRACTOR shall obtain a similar certification from any of its Subcontractors and Subsubcontractors performing Work under this Tank Contract.
- 53.6 TANK CONTRACTOR is aware of and is fully informed of TANK CONTRACTOR's responsibilities under the Rehabilitation Act of 1973 and the Americans with Disabilities Act and, where applicable, shall comply with the provisions of each Act and the regulations promulgated thereunder unless exempted therefrom.
- 53.7 Without limitation of the foregoing, TANK CONTRACTOR's attention is directed to 41 CFR Section 60-741 and the clause therein titled "Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers," which by this reference, is incorporated herein.

**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**  
**EXHIBIT “B”**  
**ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT**  
**SPECIAL CONDITIONS**  
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**EXHIBIT “B”**  
**LNG TANK CONTRACT SPECIAL CONDITIONS**

**SC-1 DEFINITIONS**

- 1.1 “TANK CONTRACTOR” means collectively Diamond LNG LLC, a Delaware limited liability company, and Zachry Construction Corporation, a Texas corporation, and their authorized representatives, successors, and permitted assigns.
- 1.2 “PURCHASER” means Sabine Pass LNG, L.P. and its authorized representatives, successors in interest, and permitted assigns.
- 1.3 “AAA” has the meaning given in Special Condition 31, titled ARBITRATION.
- 1.4 “AAA Rules” has the meaning given in Special Condition 31, titled ARBITRATION.
- 1.5 “Affiliates” means any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party. 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. For purposes of this definition, Management Contractor is not an Affiliate of PURCHASER.
- 1.6 “Applicable Law” means all laws, statutes, ordinances, orders, decrees, injunctions, licenses, Permits, approvals, rules, codes and regulations, including any conditions thereto, of any Governmental Instrumentality having jurisdiction over all or any portion of the Site or the Facility or performance of all or any portion of the Work or the operation of the Facility, or other legislative or administrative action of a Governmental Instrumentality, or a final decree, judgment or order of a court which relates to the performance of Work hereunder.
- 1.7 “Baseline Field Labor Rates and Compensation” has the meaning set forth in Special Condition 45, titled WAGE ADJUSTMENTS.
- 1.8 “Battery Limits” or “B.L.” has the meaning given in Exhibit D, Article 2, titled Scope of Work – Engineering and Procurement.
- 1.9 “Bechtel” means Bechtel Corporation.
- 1.10 “Books and Records” has the meaning given in General Condition 36, titled BOOKS AND AUDIT.
- 1.11 “Builder’s Risk Insurance” has the meaning set forth in GC-34.5(1).
- 1.12 “Business Day” means every Day other than a Saturday, a Sunday or a Day that is an official holiday for employees of the federal government of the United States of America.

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- 1.13 “Change Order” has the meaning given in General Condition 32, titled CHANGES. The term “Change Order” includes both mutual Change Orders signed by both Parties and unilateral Change Orders issued by PURCHASER.
- 1.14 “Change Order Request” has the meaning given in General Condition 32, titled CHANGES.
- 1.15 “Changes in Law” means any amendment, modification, superseding act, deletion, addition or change in or to Applicable Law (excluding changes to Tax laws where such Taxes are based upon Contractor’s income or profits/losses) that occurs and takes effect after the Effective Date. A Change in Law shall include any official change in the interpretation or application of Applicable Law (including applicable codes and standards set forth in Applicable Law), *provided that* such change is expressed in writing by the applicable Governmental Instrumentality.
- 1.16 “Collateral Agent” means the collateral agent under the credit agreement for the financing of the Project.
- 1.17 “Cool Down” means the controlled process by which a Phase 2 Tank and its related systems within TANK CONTRACTOR’s Scope of Work are taken from their ambient condition (purged and cleaned of air, moisture and debris, etc.) and cooled down to its cryogenic temperature (near -260°F) through the use of cold Natural Gas or LNG, and the Phase 2 Tank has been successfully filled with LNG to its high liquid level. A Phase 2 Tank and its related systems within TANK CONTRACTOR’s Scope of Work have achieved “Cool Down” when they have reached their cryogenic temperature and the Phase 2 Tank has been successfully filled to its high liquid level.
- 1.18 “Corrective Work” shall have the meaning set forth in General Condition 37, titled WARRANTY/DEFECT CORRECTION PERIOD.
- 1.19 “Data Books” mean the data books required to be submitted by TANK CONTRACTOR in accordance with Exhibit D, Article 2.10.3.
- 1.20 “Day” means a calendar day.
- 1.21 “Defect” or “Defective” means any work or component thereof that is not in conformity with the warranty in General Condition 37, titled WARRANTY/DEFECT CORRECTION PERIOD.
- 1.22 “Defect Correction Period” means, with respect to each Phase 2 Tank, the period commencing upon Provisional Acceptance for the applicable Phase 2 Tank and ending upon the earlier of (i) eighteen (18) months after Provisional Acceptance for such Phase 2 Tank and (ii) two (2) years after RFCD for such Phase 2 Tank, with the exception of paint coatings, which shall end 12 months after RFCD of such Phase 2 Tank.
- 1.23 “Diamond” has the meaning set forth in the Form of Agreement.
- 1.24 “Effective Date” has the meaning given in the Tank Contract Form of Agreement.

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- 1.25 “Environmental Compliance Plan” means the plan required by GC-14.2.
- 1.26 “Excessive Monthly Precipitation” means that the total precipitation measured at the Phase 2 Tank Site for the calendar month that the event in question occurred has exceeded the following selected probability levels for such calendar month for Weather Station 417174 BPT, Port Arthur AP Beaumont TX, as specified in the National Oceanic and Atmospheric Administration publication titled “Climatology of the U.S. No. 81, Supplement No. 1, Monthly Precipitation Probabilities and Quintiles, 1971-2000.”:
- (1) For the period from TANK CONTRACTOR’s mobilization to the Phase 2 Tank Site until completion of the last pile cap for each Phase 2 Tank, the selected probability level of 0.6 shall apply for the footprint for each Phase 2 Tank; and
  - (2) For all other periods after TANK CONTRACTOR’s mobilization to the Phase 2 Tank Site, the selected probability level of 0.8 shall apply.
- The Parties recognize that the assessment as to whether or not total precipitation measured at the Phase 2 Tank Site for a given calendar month constitutes Excessive Monthly Precipitation can only be made after the end of the calendar month in question.
- 1.27 “Facility” means the Phase 1 Facility and the Phase 2 Facility combined.
- 1.28 “FERC” means the Federal Energy Regulatory Commission.
- 1.29 “FERC Authorization” means the authorization, once given, by the FERC granting to PURCHASER the approvals requested in that certain application filed by PURCHASER with the FERC on July 29, 2005, in Docket No. CP05-396-000 (as may be amended from time to time) pursuant to Section 3(a) of the Natural Gas Act and the corresponding regulations of the FERC.
- 1.30 “Field Labor” has the meaning set forth in Special Condition 45, titled WAGE ADJUSTMENTS.
- 1.31 “Field Labor Rates and Compensation” has the meaning set forth in Special Condition 45, titled WAGE ADJUSTMENTS.
- 1.32 “Final Acceptance” has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.33 “Final Acceptance Certificate” has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.34 “Final Conditional Lien and Claim Waiver” means the waiver and release provided to PURCHASER by TANK CONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.10, which shall be in the form of Exhibit “B” Appendix B-10, Form B-10-5 and B-10-7, respectively.



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- 1.35 “Final Invoice” has the meaning given in Special Condition 15, titled INVOICING AND PAYMENT.
- 1.36 “Final Unconditional Lien and Claim Waiver” means the waiver and release provided to PURCHASER by TANK CONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.10, which shall be in the form of Exhibit “B” Appendix B-10, Form B-10-6 and B-10-8, respectively.
- 1.37 “Force Majeure” means any act or event that (i) prevents, delays or materially and adversely impacts the affected Party’s performance of its obligations in accordance with the terms of this Tank Contract, (ii) is beyond the reasonable control of the affected Party, not due to its fault or negligence and (iii) could not have been prevented or avoided by the affected Party through the exercise of commercially reasonable efforts. Force Majeure may include catastrophic storms or floods, Excessive Monthly Precipitation, lightning, tornadoes, hurricanes, a named tropical storm, earthquakes and other acts of God, wars, civil disturbances, revolution, acts of public enemy, acts of terrorism, credible threats of terrorism, revolts, insurrections, sabotage, riot, plague, epidemic, commercial embargoes, expropriation or confiscation of the Facility, epidemics, fires, explosions, industrial action or strike (except as excluded below), and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party. Force Majeure shall not include any of the following: (i) economic hardship unless such economic hardship was otherwise caused by Force Majeure; (ii) changes in market conditions unless any such change in market conditions was otherwise caused by Force Majeure; (iii) industrial actions and strikes involving only the employees of TANK CONTRACTOR or any of its Subcontractors or Subsubcontractors, except for industrial actions and strikes involving the employees of the Subcontractor supplying the nickel steel for the Phase 2 Tanks; or (iv) nonperformance or delay by TANK CONTRACTOR or its Subcontractors or Subsubcontractors, unless such nonperformance or delay was otherwise caused by Force Majeure.
- 1.38 “Geotechnical Reports” means the following reports, each prepared by Tolunay-Wong Engineers, Inc. and provided by PURCHASER to TANK CONTRACTOR prior to the Effective Date: (i) Geotechnical Investigation Phase 2 Expansion, Sabine LNG Import Terminal, Cameron Parish, Louisiana, TWEI No. 05-H028, dated July 2005; and (ii) Geological Hazard Evaluation, Sabine LNG Terminal, Sabine, Louisiana, dated September 19, 2003.
- 1.39 “Good Engineering and Construction Practices” or “GECP” means the generally accepted practices, skill, care, methods, techniques and standards employed by the international LNG industry at the time of the Effective Date that are commonly used in prudent engineering, procurement and construction to safely design, construct, pre-commission, commission, start-up and test LNG related facilities of similar size and type as the Phase 2 LNG Tanks, in accordance with Applicable Law and applicable codes and standards.
- 1.40 “Goods” has the meaning given in General Condition 34, titled TITLE AND RISK OF LOSS.

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- 1.41 “Governmental Instrumentality” means any federal, state or local department, office, instrumentality, agency, board or commission having jurisdiction over a Party or any portion of the Work, the Facility or the Site.
- 1.42 “Guarantor” has the meaning given in the Tank Contract Form of Agreement.
- 1.43 “Hazardous Material(s)” means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.
- 1.44 “Indemnified Party” means any member of the PURCHASER Group or TANK CONTRACTOR Group to which an indemnification obligation is owed, as the context requires.
- 1.45 “Indemnifying Party” means the Party with the indemnification obligation, as the context requires.
- 1.46 “Insolvency Event” means, in relation to any Party, the bankruptcy, insolvency, liquidation, administration, administrative or other receivership or dissolution of such Party, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution or making a general assignment or filing for the benefit of its creditors) for or with a view toward any of the foregoing.
- 1.47 “Interim Conditional Lien Waiver” means the conditional waiver and release provided to PURCHASER by TANK CONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.4, which shall be in the form of Exhibit “B” Appendix B-10, Form B-10-1 and B-10-3, respectively.
- 1.48 “Interim Unconditional Lien Waiver” means the unconditional waiver and release provided to PURCHASER by TANK CONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.4, which shall be in the form of Exhibit “B” Appendix B-10, Form B-10-2 and B-10-4, respectively.
- 1.49 “Invoice” has the meaning given in Special Condition 15, titled INVOICING AND PAYMENT.

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- 1.50 “Key Personnel” (or any one of them as a “Key Person”) shall have the meaning set forth in Special Condition 27, titled KEY PERSONNEL.
- 1.51 “Labor Compensation Allowance” has the meaning set forth in Special Condition 45, titled WAGE ADJUSTMENTS.
- 1.52 “Landowner” means any landowner that has leased land or provided a right of way or easement to and member of the PURCHASER Group in connection with the Project.
- 1.53 “Lender” means any entity or entities providing temporary or permanent debt financing to PURCHASER for the Phase 2 Tanks.
- 1.54 “Letter of Credit” has the meaning given in Special Condition 13, titled LETTER OF CREDIT.
- 1.55 “Level III Schedule” means a level of detail in a CPM schedule in which the work breakdown structure is at an area level and shall involve over three hundred (300) activities per Phase 2 Tank. The deliverables by each engineering discipline are captured at this level.
- 1.56 “Limited Notice to Proceed” or “LNTP” shall have the meaning set forth in SC-8.12.
- 1.57 “Liquidated Damages” has the meaning set forth in Special Condition 20, titled LIQUIDATED DAMAGES.
- 1.58 “LNG” means liquefied Natural Gas.
- 1.59 “Local Labor Survey” has the meaning set forth in Special Condition 45, titled WAGE ADJUSTMENTS.
- 1.60 “Louisiana Sales and Use Tax” shall have the meaning set forth in the Special Condition 43, titled LOUISIANA SALES AND USE TAXES.
- 1.61 “Major Subcontract” means any Subcontract with a Subcontractor listed in Appendix B-9 or any Subcontract having an aggregate value in excess of One Million U.S. Dollars (US \$1,000,000).
- 1.62 “Major Subcontractor” means any Subcontractor with whom TANK CONTRACTOR enters, or intends to enter, into a Major Subcontract
- 1.63 “Major Subsubcontract” means any Subsubcontract with a Subsubcontractor listed in Appendix B-9 or any Subsubcontract having an aggregate value in excess of One Million U.S. Dollars (US \$1,000,000).
- 1.64 “Major Subsubcontractor” means any Subsubcontractor that enters, or intends to enter into a Major Subsubcontract.

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- 1.65 “Management Contractor” means a construction manager, if any, engaged by PURCHASER to manage the Work performed under the Tank Contract and so designated in writing by PURCHASER as “Management Contractor.” Such Management Contractor must be reasonably acceptable to TANK CONTRACTOR, and for purposes of the foregoing, the Parties agree in advance that Bechtel is reasonably acceptable to TANK CONTRACTOR.
- 1.66 “Mechanical Completion” shall have the meaning set forth in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.67 “Milestone Payment Schedule” has the meaning specified in Special Condition 14, titled Measurement for Payment.
- 1.68 “Milestone Payment Statement” has the meaning specified in Special Condition 14, titled Measurement for Payment.
- 1.69 “Natural Gas” means combustible gas consisting primarily of methane.
- 1.70 “Notice to Proceed” or “NTP” means the notice given by PURCHASER to TANK CONTRACTOR authorizing and requiring TANK CONTRACTOR to begin to perform TANK CONTRACTOR’s complete Scope of Work.
- 1.71 “NTP Tank 3” has the meaning given in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
- 1.72 “Operating Plant Procedures” means any and all safety, security, operations, maintenance and other procedures for the Facility, the Phase 1 Facility, the Phase 2 Facility, or any parts thereof, written by or on behalf of PURCHASER for the purpose of or with respect to the operation of any portion of the Facility.
- 1.73 “Operations and Maintenance Manuals” mean the manuals required to be submitted by TANK CONTRACTOR in accordance with Exhibit D, Article 2.10.2.
- 1.74 “Option 1” has the meanings given in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
- 1.75 “Party” or “Parties” has the meaning specified in the Tank Contract Form of Agreement.
- 1.76 “Payment Milestones” has the meaning specified in Special Condition 14, titled MEASUREMENT FOR PAYMENT.
- 1.77 “Payment Milestone Statement” has the meaning given in Special Condition 14, titled MEASUREMENT FOR PAYMENT.
- 1.78 “Permit” means any valid waiver, certificate, approval, consent, license, exemption, variance, franchise, permit, authorization or similar order or authorization from any Governmental Instrumentality required to be obtained or maintained in connection with the Facility, the Phase 2 Site or the Work. Permit includes PURCHASER Permits and TANK CONTRACTOR Permits.

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- 1.79 “Person” means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.
- 1.80 “Phase 1 EPC Agreement” means the Engineering, Procurement and Construction Agreement for the Sabine Pass LNG Terminal by and between Bechtel and Sabine Pass LNG, L.P., dated December 18, 2004.
- 1.81 “Phase 1 Facility” means the facilities existing or contemplated for the Phase 1 Project, including the LNG receiving, storage and regasification facilities.
- 1.82 “Phase 1 Project” means the Sabine Pass LNG Terminal, located at Sabine Pass, Louisiana, including the LNG receiving, storage and regasification facilities to be engineered, procured, constructed, pre-commissioned, commissioned and tested by Bechtel for PURCHASER, pursuant to the Phase 1 EPC Agreement.
- 1.83 “Phase 1 Site” means that portion of Sabine Pass, Louisiana at which the construction activity is being or shall be performed for the Phase 1 Project.
- 1.84 “Phase 1 Tanks” means the three (3) LNG tanks for the Phase 1 Project, designated as Tanks S-101, S-102, and S-103.
- 1.85 “Phase 2 Facility” means the facilities existing or contemplated for the Phase 2 Project, including the LNG receiving, storage and regasification facilities. The Phase 2 Tanks compose a portion of the Phase 2 Facility.
- 1.86 “Phase 2 Project” means the expansion of the Sabine Pass LNG Terminal, located at Sabine Pass, Louisiana, including additional LNG receiving, storage and regasification facilities. The Phase 2 Tanks compose a portion of the Phase 2 Project.
- 1.87 “Phase 2 Site” means that portion of Sabine Pass at which the construction activity is being or shall be performed for the Phase 2 Project.
- 1.88 “Phase 2 Tank Site” means that portion of the Phase 2 Site available for TANK CONTRACTOR to perform the Work under this Tank Contract. The Phase 2 Tank Site is defined in greater detail in General Condition 19, titled TANK CONTRACTOR’S WORK AREA and in Exhibit “B,” Appendix B-13.
- 1.89 “Phase 2 Tanks” means the LNG tanks that, by this Tank Contract, TANK CONTRACTOR has agreed to engineer, procure and construct for the Phase 2 Project, as set forth with more particularity in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK. If Option 1 is not exercised, Phase 2 Tanks means Tank S-104 and Tank S-105. If Option 1 is exercised by PURCHASER pursuant to SC-8, Phase 2 Tanks means Tank S-104, Tank S-105 and Tank S-106.

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- 1.90 “Project” means the engineering, procurement and construction of the Phase 2 Tanks and other Work covered by this Tank Contract.
- 1.91 “Provisional Acceptance” has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.92 “Provisional Acceptance Certificate” has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.93 “PURCHASER-Caused Delay” has the meaning given in GC-32.10.
- 1.94 “PURCHASER Contractors” means contractors and subcontractors, or any one of them, performing work on the Phase 2 Project as part of the construction of the Phase 2 Facility, other than TANK CONTRACTOR, Subcontractors and Subsubcontractors.
- 1.95 “PURCHASER Group” means (i) PURCHASER, its parent (Cheniere Energy, Inc.), Lender, and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above. For avoidance of doubt, PURCHASER Group does not include Management Contractor.
- 1.96 “PURCHASER Permits” means the Permits listed in Exhibit “B” Appendix B-12 and any other Permits (not listed in Appendix B-12) necessary for performance of the Work or the operation of the Facility and which are required to be obtained in the name of PURCHASER or its Affiliates pursuant to Applicable Law.
- 1.97 “Qualified Research Expenditures” means the costs funded by PURCHASER under this Tank Contract that are incurred in connection with Work performed by TANK CONTRACTOR, its Subcontractors and Subsubcontractors which meet all of the requirements of Section 41(d)(1) of the Internal Revenue Code of 1986, as amended, and which are related to the development or improvement of a business component of the Phase 2 Facility.
- 1.98 “Quality Assurance Plan” has the meaning given in General Condition 35, titled QUALITY ASSURANCE PROGRAM.
- 1.99 “Ready For Cool Down” or “RFCD” has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.100 “Receiving Party” means the Party having confidentiality obligations with respect to such Confidential Information.
- 1.101 “Retainage” has the meaning given in Special Condition 15, titled INVOICING AND PAYMENT.
- 1.102 “Safety and Health Plan” or “S&H Plan” shall have the meaning given in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.
- 1.103 “Scope of Work” means the entirety of the Work.

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- 1.104 “Security Plan” shall have the meaning given in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.
- 1.105 “Site” means the Phase 1 Site and the Phase 2 Site combined.
- 1.106 “Spare Parts List” means the spare parts list required to be submitted by TANK CONTRACTOR in accordance with Exhibit D, Article 2.10.2.
- 1.107 “Subcontract” means any agreement by and between TANK CONTRACTOR and a Subcontractor for the performance of any portion of the Work.
- 1.108 “Subcontractor” means any Person, including a Vendor, who has a direct contract with TANK CONTRACTOR to manufacture or supply equipment, materials or labor that are portion of the Work, to lease construction equipment to TANK CONTRACTOR in connection with the Work, or to otherwise perform any portion of the Work.
- 1.109 “Subsubcontract” means any agreement by and between a Subcontractor and a Subsubcontractor or by and between a Subsubcontractor and another Subsubcontractor for the performance of any portion of the Work.
- 1.110 “Subsubcontractor” means any Person, including a Vendor, who has a direct or indirect contract with a Subcontractor another Subsubcontractor to manufacture or supply equipment, materials or labor that are a portion of the Work, to lease construction equipment to a Subcontractor or another Subsubcontractor in connection with the Work, or to otherwise perform any portion of the Work. For avoidance of confusion, a Subsubcontractor is any lower tier subcontractor, vendor or labor broker that enters into a contract, receives a purchase order, or otherwise agrees, to perform any portion of the Work.
- 1.111 “Subsurface Soil Conditions” means subsurface conditions at the Phase 2 Tank Site.
- 1.112 “Tank Contract Documents” shall have the meaning set forth in the Tank Contract Form of Agreement.
- 1.113 “Tank Contract Milestone(s)” means the milestones specified in SC-8.7.
- 1.114 “Tank Contract Milestone Date(s)” means the established completion date(s) set forth in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
- 1.115 “Tank Contract Price” means the compensation in full to TANK CONTRACTOR for the full and complete performance of the Work and all of TANK CONTRACTOR’s other obligations under this Tank Contract. The amount of the Tank Contract Price is set forth in Exhibit “C” to this Tank Contract. This amount may only be changed by Change Order in accordance with the General Condition 32, titled CHANGES.
- 1.116 “Tank Contract Schedule” means the Work execution schedule developed and approved pursuant to Special Condition 9, titled TANK CONTRACT SCHEDULE.

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- 1.117 “TANK CONTRACTOR Group” means (i) each of Diamond and Zachry, and their respective parent companies, and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above.
- 1.118 “TANK CONTRACTOR Permits” means the Permits listed in Exhibit “B” Appendix B-16 and any other Permits (not listed in Appendix B-16) necessary for the performance of the Work and which are required to be obtained in the name of TANK CONTRACTOR or its Subcontractors or Subsubcontractors.
- 1.119 “Tank S-104,” “Tank S-105,” and “Tank S-106” have the meanings given in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
- 1.120 “Target Milestone Date” has the meaning given in SC-8.8.
- 1.121 “Taxes” (or “Tax”) means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including Louisiana Sales and Use Taxes, value-added, sales, use, gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, premium, franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.
- 1.122 “Third Party” means any Person other than a member of (i) the PURCHASER Group, (ii) the TANK CONTRACTOR Group, (iii) the Management Contractor, if any, or (iv) Subcontractor or Subsubcontractor or any employee, officer or director of such Management Contractor, Subcontractor or Subsubcontractor.
- 1.123 “Third Party IP” means any patent, copyright or trade secret held by a Third Party.
- 1.124 “Third Party Proprietary Work Product” has the meaning set forth in SC-41.2.
- 1.125 “Vendor” means any Subcontractor or Subsubcontractor, other than a Major Subcontractor or Major Subsubcontractor, who has contracted to manufacture or supply equipment or materials that are a portion of the Work, whose equipment or materials will be purchased by purchase order or other form agreement, and who will not enter or cause any of its employees to enter onto the Site in any manner in the performance of its contract. For avoidance of doubt, if the Subcontractor, Subsubcontractor or its employees must enter onto the Site in any form, fashion or manner in the performance of its obligations under its contract with TANK CONTRACTOR, then that Subcontractor or Subsubcontractor is not a Vendor.
- 1.126 “Work” means all the stated or implied activities to be performed by TANK CONTRACTOR as required by the Tank Contract Documents, including, without limitation, the supply of equipment and materials.



- 1.127 “Work Product” has the meaning given in General Condition 41, titled RIGHT TO WORK PRODUCT.
- 1.128 “Zachry” has the meaning set forth in the Form of Agreement.

The meanings specified in this SC-1 are applicable to both the singular and plural. As used in the Tank Contract, the terms “herein,” “herewith,” “hereunder” and “hereof” are references to the Tank Contract taken as a whole, and the terms “include,” “includes” and “including” mean “including, without limitation,” or variant thereof.

## SC-2 INSURANCE

- 2.1 Unless otherwise specified in this Tank Contract, TANK CONTRACTOR shall, at its sole expense, maintain in effect at all times during the performance of the Work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to PURCHASER. TANK CONTRACTOR shall deliver to PURCHASER no later than ten (10) Days after the Effective Date, but in any event prior to commencing the Work or entering the Phase 2 Tank Site, certificates of insurance or policies as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates or policies shall be issued in the form provided by PURCHASER or if none is provided in a form acceptable to PURCHASER and provide that not less than thirty (30) Days advance written notice will be given to PURCHASER prior to cancellation, termination or material alteration of said policies of insurance. Certificates shall identify on their face the Phase 2 Project and the Tank Contract.
- 2.2 Standard Coverage
- (1) Workers’ Compensation as required by any Applicable Law or regulation.
- If there is an exposure of injury to TANK CONTRACTOR’s employees under the U.S. Longshoremen’s and Harbor Workers’ Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
- (2) Employer’s Liability of not less than:
- US \$1,000,000 each accident;
  - US \$1,000,000 disease each employee;
  - and US \$1,000,000 disease policy limit.
- (3) Commercial General Liability Insurance
- (a) Coverage
- TANK CONTRACTOR shall carry Commercial General Liability Insurance covering all operations by or on behalf of TANK

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CONTRACTOR providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below, including coverage for:

- (a.1) Premises and Operations;
- (a.2) Products and Completed Operations for two (2) years after Provisional Acceptance of the last Phase 2 Tank;
- (a.3) Contractual Liability insuring the indemnity agreement in General Condition 39, titled INDEMNITY;
- (a.4) Broad form Property Damage (including Completed Operations);
- (a.5) Explosion, Collapse and Underground Hazards; and
- (a.6) Personal Injury Liability.

The Commercial General Liability insurance shall be the Occurrence Coverage Form.

(b) Policy Limits

- (b.1) For TANK CONTRACTOR's Commercial General Liability Insurance, the limits of liability for bodily injury, property damage, and personal injury shall be not less than:

US\$5,000,000 Combined single limit for Bodily Injury and Property Damage each occurrence;

US\$5,000,000 Personal Injury Limit each occurrence;

US\$10,000,000 Products-Completed Operations Annual Aggregate Limit; and

US\$10,000,000 General Annual Aggregate Limit with such limits dedicated to the Project.

- (b.2) If the policy does not have an endorsement providing the General Annual Aggregate limits are as indicated above, TANK CONTRACTOR shall provide an endorsement titled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than US \$10,000,000 and a General Annual Aggregate Limit of not less than US \$10,000,000. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(c) "Additional Insureds"

- (c.1) All members of the PURCHASER Group shall be named as Additional Insureds under the Commercial General Liability Insurance policy to the extent of TANK CONTRACTOR's indemnity obligations under this Tank Contract. Such insurance shall include an insurer's waiver of subrogation in favor of the Additional Insureds, be primary as regards any other coverage maintained for or by the Additional Insureds, and shall contain a cross-liability or severability of interest clause.

(4) Commercial Automobile Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned.

- (a) The combined single limit for Bodily Injury and Property Damage Liability shall be not less than US \$1,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

- (b) TANK CONTRACTOR's Commercial Automobile Liability Insurance shall include coverage for Automobile Contractual Liability.

(5) TANK CONTRACTOR's Construction Equipment Floater covering all construction equipment and items (whether owned, rented, or borrowed) of TANK CONTRACTOR that will not become part of the Phase 2 Facility. It is understood that this coverage shall not be included under the Builder's Risk Insurance. Notwithstanding anything to the contrary contained herein, TANK CONTRACTOR shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such construction equipment. TANK CONTRACTOR shall require all insurance policies (including policies of TANK CONTRACTOR, Subcontractors and Subsubcontractors) in any way relating to such construction equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against all members of the PURCHASER Group.

2.3 Special Operations Coverage

Should any of the Work:

- (1) Involve marine operations, TANK CONTRACTOR shall provide or have provided coverage for liabilities arising out of such marine operations, including contractual liability under its Commercial General Liability Insurance or Marine Hull and Machinery Insurance and Protection and Indemnity Insurance. In the event such marine operations involve any TANK CONTRACTOR owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, TANK CONTRACTOR agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability

Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be no less than the market value of the vessel. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverages shall include coverage for contractual liability, wreck removal, Tower's liability if applicable; and full collision coverage and shall be endorsed:

- (a) To provide full coverage to PURCHASER Group as Additional Insureds without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language that would limit coverage to liability of an insured "as owner of the vessel;" and
- (b) To waive any limit to full coverage for the Additional Insureds provided by any applicable liability statute.

All marine insurances provided by TANK CONTRACTOR shall include an Insurer's waiver of subrogation in favor of the Additional Insureds.

- (2) Involve the transport of property from outside the continental United States, as set forth in GC-34.5(4), "all risk warehouse to warehouse" marine cargo insurance, or such similar form of insurance that will insure against physical loss or damage to the property being transported, moved or handled by TANK CONTRACTOR pursuant to the terms of this Tank Contract. Such insurance shall provide a limit of not less than the replacement cost of the highest value being moved, shall insure the interest of TANK CONTRACTOR and PURCHASER Group as their respective interests may appear and shall include an insurer's waiver of subrogation rights in favor of them.
- (3) Involve aircraft (fixed wing or helicopter) owned, operated or chartered by TANK CONTRACTOR, liability arising out of such aircraft shall be insured for a combined single limit not less than US \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. Such insurance shall name PURCHASER Group as Additional Insureds, include an insurer's waiver of subrogation in favor of the Additional Insureds, state that it is primary insurance as regards the Additional Insureds and contain a cross-liability or severability of interest clause. If the aircraft hull is insured, such insurance shall provide for an Insurer's waiver of subrogation rights in favor of PURCHASER Group. In the event TANK CONTRACTOR charts aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.

#### 2.4 Related Obligations:

- (1) The requirements contained herein as to types and limits, as well as PURCHASER's approval of insurance coverage to be maintained by TANK CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by TANK CONTRACTOR under this Tank Contract.

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- (2) The certificates of insurance must provide clear evidence that TANK CONTRACTOR's insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause.
  - (3) All insurance required to be obtained by TANK CONTRACTOR pursuant to this Tank Contract shall be from an insurer or insurers permitted to conduct business as required by Applicable Law and shall be rated with either an "A-: IX" or better by Best's Insurance Guide Ratings or "A-" or better by Standard and Poor's.
  - (4) The following insurance policies provided by TANK CONTRACTOR shall include PURCHASER Group as Additional Insureds: commercial automobile liability, aircraft liability, marine hull and machinery, charterer's liability, protection and indemnity, and commercial general liability insurance.
  - (5) All policies of insurance provided by TANK CONTRACTOR or any Subcontractor or Subsubcontractor pursuant to this Tank Contract shall include clauses providing that each underwriter shall waive its rights of recovery, under subrogation or otherwise, against all members of the PURCHASER Group.
  - (6) Except as to Builder's Risk Insurance in SC-2.6, the insurance policies of TANK CONTRACTOR and any Subcontractor or Subsubcontractor shall state that such coverage is primary and non-contributory to any other insurance or self-insurance available to or provided by the PURCHASER Group.
  - (7) All policies (other than in respect to worker's compensation insurance) shall insure the interests of the PURCHASER Group regardless of any breach or violation by TANK CONTRACTOR or any other party of warranties, declarations or conditions contained in such policies, any action or inaction of PURCHASER Group or others, or any foreclosure relating to the Phase 2 Project or any change in ownership of all or any portion of the Phase 2 Project.
  - (8) [Not Used].
  - (9) All insurance policies shall include coverage for jurisdiction within the United States of America or other applicable jurisdiction.
  - (10) TANK CONTRACTOR and its Subcontractors and Subsubcontractors shall do nothing to void or make voidable any of the insurance policies purchased and maintained by PURCHASER or TANK CONTRACTOR or any Subcontractors or Subsubcontractors hereunder. TANK CONTRACTOR shall promptly give PURCHASER and Lender notice in writing of the occurrence of any casualty, claim, event, circumstance, or occurrence that may give rise to a claim under an insurance policy hereunder and arising out of or relating to the performance of the Work. In addition, TANK CONTRACTOR shall ensure that PURCHASER is

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kept fully informed of any subsequent action and developments concerning the same, and assist in the investigation of any such casualty, claim, event, circumstance or occurrence.

- (11) TANK CONTRACTOR's certificate of insurance form, completed by TANK CONTRACTOR's insurance agent, broker or underwriter, shall reflect all of the insurance required by TANK CONTRACTOR, the recognition of additional insured status, waivers of subrogation, and primary/non-contributory insurance requirements contained in this Tank Contract.
- (12) Prior to the commencement of any Work, TANK CONTRACTOR shall deliver to PURCHASER certificates of insurance reflecting all of the insurance required of TANK CONTRACTOR under this Tank Contract. All certificates of insurance and associated notices and correspondence concerning such insurance shall be addressed to the contact information listed in the Tank Contract.
- (13) Policy Cancellation and Change: All policies of insurance required to be maintained pursuant to this Tank Contract shall be endorsed so that if at any time they are canceled, or their coverage is reduced (by any party including the insured) so as to affect the interests of PURCHASER Group, such cancellation or reduction shall not be effective as to PURCHASER Group for sixty (60) Days after receipt by PURCHASER Group of written notice from such insurer of such cancellation or reduction.
- (14) Reports: TANK CONTRACTOR will advise PURCHASER in writing promptly of (1) any material changes in the coverage or limits provided under any policy required by this Tank Contract and (2) any default in the payment of any premium and of any other act or omission on the part of TANK CONTRACTOR which may invalidate or render unenforceable, in whole or in part, any insurance being maintained by TANK CONTRACTOR pursuant to this Tank Contract.
- (15) Lender Requirements: TANK CONTRACTOR agrees to cooperate with PURCHASER and as to any changes in or additions to the foregoing insurance provisions made necessary by requirements imposed by Lender (including additional insured status, notice of cancellation, certificates of insurance). If any additional insurance requirements from Lender result in increased insurance premiums to be paid by TANK CONTRACTOR for such insurance, TANK CONTRACTOR shall be entitled to a Change Order increasing the Tank Contract Price by the amount of the increase in such premiums.
- (16) [Not Used].
- (17) TANK CONTRACTOR shall ensure that each Subcontractor and Subsubcontractor shall either be covered by the insurance provided by TANK CONTRACTOR pursuant to this Tank Contract, or by insurance procured by a Subcontractor or Subsubcontractor. Should a Subcontractor or Subsubcontractor be responsible for procuring its own insurance coverage, TANK CONTRACTOR

shall ensure that each such Subcontractor or Subsubcontractor shall procure and maintain insurance to the full extent required of TANK CONTRACTOR under this Tank Contract and shall be required to comply with all of the requirements imposed on TANK CONTRACTOR with respect to such TANK CONTRACTOR-provided insurance on the same terms as TANK CONTRACTOR, except that TANK CONTRACTOR shall have the sole responsibility for determining the limits of coverage required to be obtained by such Subcontractors or Subsubcontractors in accordance with reasonably prudent business practices. All such insurance shall be provided for at the sole cost of TANK CONTRACTOR or its Subcontractors or Subsubcontractors. Failure of Subcontractors or Subsubcontractors to procure and maintain such insurance coverage shall not relieve TANK CONTRACTOR of its responsibilities under the Tank Contract.

2.5 Statutory Employees for Purposes of Louisiana Worker's Compensation Act.

In all cases where TANK CONTRACTOR's employees (defined to include the direct, borrowed, special, or statutory employees of Subcontractor and Subsubcontractors) are performing Work in or offshore the state of Louisiana or are otherwise covered by the Louisiana Workers' Compensation Act, La. R.S. 23:1021, et seq., PURCHASER and TANK CONTRACTOR agree that the Work performed by TANK CONTRACTOR, Subcontractors, Subsubcontractors, and TANK CONTRACTOR's, Subcontractors', and Subsubcontractors' employees pursuant to this Tank Contract are an integral part of and are essential to the ability of PURCHASER to generate PURCHASER's goods, products, and work for the purpose of La. R.S. 23:1061(a)(1). Furthermore, PURCHASER and TANK CONTRACTOR agree that PURCHASER is the statutory employer of TANK CONTRACTOR's, Subcontractors', and Subsubcontractors' employees for purposes of La. R.S. 23:1061(a)(3), and that PURCHASER shall be entitled to the protections afforded a statutory employer under Louisiana law. Regardless of PURCHASER's status as the statutory or special employer (as defined in La. R.S. 23:1031(c)) of the employees of PURCHASER, Subcontractors, or Subsubcontractors, and regardless of any other relationship or alleged relationship between such employees and PURCHASER, TANK CONTRACTOR shall be and remain at all times primarily responsible for the payment of all workers' compensation and medical benefits to TANK CONTRACTOR's, Subcontractors' and Subsubcontractors' employees, and neither TANK CONTRACTOR, nor its Subcontractors and Subsubcontractors, nor their respective insurers or underwriters shall be entitled to seek contribution or indemnity for any such payments from PURCHASER or any other member of the PURCHASER Group. NOTWITHSTANDING THE FOREGOING, UNDER NO CIRCUMSTANCES SHALL THIS SECTION 2.5 BE INTERPRETED TO RELIEVE TANK CONTRACTOR FROM ITS FULL RESPONSIBILITY AND LIABILITY TO PURCHASER UNDER THIS TANK CONTRACT FOR THE EMPLOYEES OF TANK CONTRACTOR OR ITS SUBCONTRACTORS AND SUBSUBCONTRACTORS (WHETHER OR NOT SUCH EMPLOYEES ARE A STATUTORY, SPECIAL OR BORROWED EMPLOYEE, OR OTHERWISE), INCLUDING TANK CONTRACTOR'S OBLIGATIONS TO DEFEND, INDEMNIFY AND HOLD HARMLESS PURCHASER GROUP FROM AND AGAINST INJURY OR DEATH TO SUCH EMPLOYEES OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF SUCH EMPLOYEES, AS PROVIDED IN GC-39.2.

**PURCHASER Furnished Insurance:**

PURCHASER shall provide the following insurances:

- (1) **Builder's Risk Insurance:** Property damage insurance on an "all risk" basis insuring TANK CONTRACTOR, its Subcontractors and Subsubcontractors, PURCHASER and Lender, as named insureds under the policy, including coverage against loss or damage during and from the perils of startup and testing.
- (a) **Sum Insured:** The insurance policy shall, subject to form exclusions, (i) be on a completed value form, with no periodic reporting requirements, (ii) insure one hundred percent (100%) of the Phase 2 Tank's insurable values, except that for property loss and damage caused by flood and windstorm, such policy shall have a sub-limit not less than US \$400,000,000 for the Facility and for property loss and damage caused by strikes, riots and civil commotion, such policy shall have a sub-limit not less than US \$100,000,000 for the Facility, (iii) value losses at replacement cost, without deduction for physical depreciation or obsolescence including custom duties, Taxes and fees.

	<b>Category of Builders Risk</b>	<b>Deductible</b>
(i.)	Windstorm & Flood	2% of values at risk at time of loss subject to a minimum of US\$ 1,000,000 each and every loss and a maximum of US \$5,000,000 each and every loss
(ii.)	Other natural perils	US\$ 500,000 each and every loss
(iii.)	Loss or damage to Wet Works (defined as works in on or over river or tidal waters)	US\$ 1,000,000 each and every loss
(iv.)	Loss of or damage arising from commissioning/testing and tank fill and LEG 3/96	US\$ 500,000 each and every loss
(v.)	All other losses	US\$ 100,000 each and every loss

**Notifications:**

In accordance with the submittal requirements outlined above, TANK CONTRACTOR shall deliver the original and two (2) copies of the certificate(s) of insurance or individual insurance policies required by this clause and all subsequent notices of cancellation, termination and alteration of such policies to:

**PURCHASER:** Sabine Pass LNG, L.P.  
**Address:** 717 Texas Avenue  
 Suite 3100  
 Houston, TX 77002



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Attention: Ed Lehotsky  
Telephone: 713-265-0206  
Facsimile: 713-659-5459  
With copy to: Sabine Pass LNG, L.P.  
Address: 717 Texas Avenue  
Suite 3100  
Houston, TX 77002  
  
Attention: David Mitchell  
Telephone: 832-204-2293  
Facsimile: 713-659-5459

### **SC-3 DESIGN CRITERIA, DRAWINGS AND SPECIFICATIONS**

- 3.1 Prior to the execution of this Tank Contract, PURCHASER has furnished TANK CONTRACTOR certain design criteria, performance specifications, and other data and information necessary to provide the basis upon which TANK CONTRACTOR shall design and engineer the Work. Subject to SC-3.4, TANK CONTRACTOR has performed engineering, cost estimated and related services and developed, provided or verified all of the information listed in Exhibits "D" through "K" for the purpose of determining that such information is adequate and sufficiently complete for TANK CONTRACTOR to engineer, procure, construct, and achieve Mechanical Completion and all other Work for, the Phase 2 Tanks for the Tank Contract Price, within the required times set forth in the Tank Contract Milestone Dates and the Tank Contract Schedule, and in accordance with all requirements of this Tank Contract, including applicable codes and standards, Applicable Law, warranties, and performance requirements. Accordingly, subject to SC-3.4, TANK CONTRACTOR (i) hereby agrees that it shall have no right to claim or seek an increase in the Tank Contract Price or an adjustment to the Tank Contract Milestone Dates with respect to any incomplete, inaccurate or inadequate information that may be contained or referenced in Exhibit "D" through "J," (ii) hereby waives and releases PURCHASER from and against any such claims, and (iii) shall not be relieved of its responsibility to achieve all requirements under this Tank Contract (including meeting applicable codes and standards, Applicable Law, and performance requirements) due to any such incomplete, inaccurate or inadequate information. Subject to SC-3.4, PURCHASER makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any information that is contained in or referenced in Exhibits "D" through "J."

- 3.2 TANK CONTRACTOR shall perform the Work only in accordance with "Issued for Construction" (IFC) drawings and any subsequent revisions thereto submitted by TANK CONTRACTOR and reviewed by PURCHASER in accordance with Special Condition 7, titled TANK CONTRACTOR-FURNISHED DRAWINGS, DATA AND SAMPLES.
- 3.3 Two (2) copies of such specifications and one (1) full size reproducible copy and three (3) full size prints of such drawings will be furnished to TANK CONTRACTOR without charge. Any additional copies of such specifications and drawings will, upon TANK CONTRACTOR's request, be furnished to TANK CONTRACTOR at actual cost.
- 3.4 PURCHASER shall be responsible for those items of information identified as "Rely Upon" in Exhibit K. TANK CONTRACTOR shall not be required to examine or be deemed to have examined any such information and PURCHASER shall remain fully responsible for the accuracy, completeness and sufficiency of such information. If PURCHASER makes a change to any such information or if TANK CONTRACTOR discovers an error in such information or non-compliance of such information with Applicable Law, and such change, error or non-compliance causes a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

#### **SC-4 PURCHASER-FURNISHED UTILITIES AND FACILITIES**

##### **4.1 Utilities**

The utilities listed below will be furnished by PURCHASER without cost to TANK CONTRACTOR, provided that all such utilities will be furnished at outlets existing on the Phase 2 Site and TANK CONTRACTOR shall, at its expense, extend such utilities from said outlets to points of use and at completion of all the Work remove all materials and equipment used for such extensions.

- (1) telephone line cabling with drop at pole;
- (2) electrical power: for office and at lay down area;
- (3) hydrotest water: in accordance with Exhibit K; and
- (4) diesel fuel for Phase 2 Tank erection generators.

##### **4.2 Access, storage, and other areas (Refer to Appendix B-13))**

The access, storage, parking, office areas and other items listed below will be furnished by PURCHASER. Such areas may be used by TANK CONTRACTOR without charge, provided that any such use will be subject to written approval of PURCHASER and provided further that any such use does not hinder or interfere with any operations or

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construction activity or work being performed at the Phase 1 Site or on the Phase 1 Project.

- (1) construction dock, including offloading dock crane, with crane operator;
- (2) access roads in accordance with Appendix B-13;
- (3) construction storage / laydown area in accordance with Exhibit "E";
- (4) parking lot in accordance with Exhibit "E";
- (5) office trailer area; and
- (6) heavy haul roads stabilized with rock sufficient for travel of 200 ton cranes (on mats) and over the road tractors and trailers to the lay down area and around each Phase 2 Tank foundation area. 200 ton crane movement will require coordination with other project activities.

#### **SC-5 PURCHASER-FURNISHED MATERIALS AND EQUIPMENT**

- 5.1 PURCHASER will furnish to TANK CONTRACTOR, at PURCHASER's designated warehouse or Site storage area, the items listed below to be incorporated into or used in performance of the Work under this Tank Contract. Such items will be furnished, without cost to TANK CONTRACTOR, provided that TANK CONTRACTOR shall, at its expense, accept delivery thereof, load, unload, transport to points of use, and care for such items until final disposition thereof. At time of acceptance of any such item from PURCHASER, TANK CONTRACTOR shall sign a receipt therefore. Signing of such receipt without reservation therein shall preclude any subsequent claim by TANK CONTRACTOR that any such items were received from PURCHASER in a damaged condition or with shortages. If at any time after acceptance of any such item from PURCHASER any such item is damaged, lost, stolen or destroyed, such item shall be repaired or replaced at the expense of TANK CONTRACTOR. Items required to be replaced may, at its option, be furnished by PURCHASER. Upon completion of all the Work under this Tank Contract, TANK CONTRACTOR shall, at its expense, return all surplus and unused items to PURCHASER's designated Site storage area.
- 5.2 PURCHASER will exert every reasonable effort to make delivery of such materials and equipment so as to avoid delay in the progress of the Work. However, should PURCHASER, for any reason, fail to make delivery of any such item and a delay results, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES. TANK CONTRACTOR shall take all appropriate action to mitigate the consequences of such delay.
- 5.3 Materials to be furnished by PURCHASER:  
As Stated In Exhibit "D."

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**SC-6 PURCHASER PERMITS**

- 6.1 General Condition 8, titled PERMITS, notwithstanding, PURCHASER will without cost to TANK CONTRACTOR, obtain or furnish the PURCHASER Permits; however, TANK CONTRACTOR shall, as necessary, provide PURCHASER with assistance in obtaining such Permits. TANK CONTRACTOR shall otherwise act in accordance with General Condition 8, titled PERMITS. All such PURCHASER Permits are available for examination at the office of PURCHASER during regular business hours.

**SC-7 TANK CONTRACTOR-FURNISHED DRAWINGS, SPECIFICATIONS, DATA AND SAMPLES**

- 7.1 Review and permission to proceed by PURCHASER as stated in this Special Condition does not constitute acceptance or approval of the materials and documents developed or selected by TANK CONTRACTOR and any approval by PURCHASER shall only constitute permission to proceed and shall not relieve TANK CONTRACTOR from its obligations under the Tank Contract nor shall such approval create any PURCHASER responsibility for the accuracy of such materials and documents. The drawings and specifications shall be based on the requirements of this Tank Contract, including the Scope of Work, drawings, specifications, applicable codes and standards and Applicable Law, and all drawings and specifications shall be signed and stamped, as required, by design professionals licensed in accordance with Applicable Law.
- 7.2 Those drawings and record drawings specified in this Tank Contract and prepared by TANK CONTRACTOR or Subcontractor or Subsubcontractor under this Tank Contract shall be prepared using computer aided design ("CAD"). TANK CONTRACTOR shall provide drawings, including record drawings, in their native formats as set forth in Exhibit "D".
- 7.3 In accordance with General Condition 41, titled RIGHT TO WORK PRODUCT, PURCHASER shall have the right to use all materials and documents developed by TANK CONTRACTOR without any obligation of any kind to TANK CONTRACTOR or its Subcontractors, Subsubcontractors or licensor(s) for any purpose with respect to the Facility.
- 7.4 TANK CONTRACTOR's design, drawings, specifications, samples, certificates and data shall be submitted as set forth below or in accordance with the Tank Contract "Drawings and Data Requirements" form(s).
- (1) Drawing Submittals
- (a) All drawings shall be submitted by and at the expense of TANK CONTRACTOR before each design phase, fabrication, installation or further work performance is commenced, allowing at least fourteen (14) Days for critical items and thirty (30) Days for non-critical drawings for review by PURCHASER.

- (b) All drawings submitted by TANK CONTRACTOR shall be certified by TANK CONTRACTOR to be correct, shall show that they are for the Phase 2 Project, and shall be furnished in accordance with the Tank Contract Drawings and Data Requirements form(s). PURCHASER will conduct a review of TANK CONTRACTOR's drawings and a reproducible drawing marked with one of the following codes will be returned to TANK CONTRACTOR within fourteen (14) Days for critical drawings and thirty (30) Days for non-critical drawings.

<u>Code</u>	<u>Notation.</u>
1.	Work may proceed
2.	Revise and Resubmit. Work may proceed subject to resolution of indicated comments.
3.	Revise and Resubmit. Work may not proceed.
4.	Review not required. Work may proceed.

- (c) Although Work may proceed on receipt of a drawing with a Code 2 notation, TANK CONTRACTOR must resolve the comments indicated, resubmit and obtain a Code 1 notation before release for further design development, equipment or material shipment, installation, or completion of the affected Work.
- (d) Drawings returned marked code 2 or 3 shall be resubmitted not later than fifteen (15) Days after transmittal by PURCHASER. PURCHASER must return a copy of the drawings endorsed with the appropriate code within fourteen (14) Days for critical drawings and thirty (30) Days for non-critical drawings.
- (e) If PURCHASER does not issue any comments, proposed changes or written disapprovals within the applicable (14) Day or thirty (30) Day time periods noted above, TANK CONTRACTOR may proceed with the development of such drawings and any construction relating thereto, but PURCHASER's lack of comments or disapproval, if applicable, shall in no event constitute an approval of the matters received by PURCHASER.

(2) Design, Drawings and Specifications

- (a) TANK CONTRACTOR shall prepare its design, drawings, and specifications using the technical documents in the Tank Contract as a basis. Construction will not commence until the submittal and approval process under SC-7.4 has occurred.
- (b) TANK CONTRACTOR shall complete its design in phases as indicated in the Tank Contract Schedule submitted in accordance with Special

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Condition 9, titled TANK CONTRACT SCHEDULE. The information submitted for each phase of the design must contain sufficient detail on the other phases to permit comprehensive review of the proposed design.

- (c) When required by PURCHASER, TANK CONTRACTOR shall, without charge, provide qualified technical personnel to participate in on-site design reviews.
- (d) Subject to SC-7.4, PURCHASER will review the design as it is completed and shall transmit comments to TANK CONTRACTOR. TANK CONTRACTOR shall promptly resolve these comments and resubmit the documents. On resubmittal, TANK CONTRACTOR shall direct specific attention, in writing, to revisions other than those proposed by PURCHASER on the previous submittal.
- (e) When the drawings and specifications have been satisfactorily completed, TANK CONTRACTOR shall carry out fabrication, manufacture or construction in accordance therewith and shall make no further changes therein except upon review by and written approval from PURCHASER.
- (f) Design drawings shall be submitted as specified in paragraph 7.4(1) above.

(3) Construction Drawings

- (a) TANK CONTRACTOR shall prepare complete construction drawings necessary to execute the Work and shall be fully responsible for the coordination of all elements of the detail design such as civil, architectural, structural, electrical, and mechanical, etc., so that full details are shown on its construction drawings to permit TANK CONTRACTOR to order its equipment and materials and for its field forces to construct the facilities covered in the Tank Contract. TANK CONTRACTOR shall also provide design calculations when requested.
- (b) For the purpose of this clause, construction drawings shall include those prepared for the construction of permanent facilities as well as temporary structures such as temporary bulkheads, excavation support, ground water control systems, and for such other temporary work as may be required for construction.
- (c) Construction drawings shall be submitted as specified in paragraph 7.4(1) above.

(4) Shop Drawings

- (a) Shop drawings shall be complete and detailed. For the purpose of this clause, shop drawings shall include but not be limited to detail design; detail, fabrication, assembly, erection and setting drawings; schedule

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drawings; manufacturer's scale drawings; wiring and control diagrams; cuts or entire catalogs, pamphlets, and descriptive literature; and performance and test data.

- (b) Shop drawings shall be checked and coordinated by TANK CONTRACTOR with the work of all disciplines involved before they are submitted to PURCHASER, and TANK CONTRACTOR's approval seal shall provide evidence of such checking and coordination.
- (c) Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing number clearly indicated. If reference drawing numbers are used, the review data of such drawings shall be included. Drawings shall indicate design dimensions, maximum and minimum allowable operating tolerances on all major wear fits, i.e., rotating, reciprocating or intermittent sliding fits between shafts or stems and seals, guides and pivot pins. The sequence of submission of all drawings shall be such that all information is available for reviewing each drawing when it is received.
- (d) Shop drawings shall be submitted as specified in paragraph 7.4(1) above.

(5) Samples

- (a) Where samples are required, they shall be submitted by and at the expense of TANK CONTRACTOR. Such submittals shall be made not less than thirty (30) Days prior to the time that the materials represented by such samples are needed for incorporation into the Work. Samples shall be subject to review and materials represented by such samples shall not be manufactured, delivered to the Phase 2 Site or incorporated into the Work without such review.
- (b) Each sample shall bear a label identifying this Tank Contract and showing TANK CONTRACTOR's name, Phase 2 Project name, name of the item, manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing number, technical specification section and paragraph number, all as applicable.
- (c) Samples that have been reviewed, may, at PURCHASER's option, be returned to TANK CONTRACTOR for incorporation into the Work.

(6) Certificates and Data

- (a) Where certificates are required, four (4) copies of each such certificate shall be submitted by and at the expense of TANK CONTRACTOR. Such submittal shall be made not less than thirty (30) Days prior to the time that the materials represented by such certificates are needed for incorporation into the Work. Certificates shall be subject to review and material represented by such certificates shall not be fabricated, delivered to the Phase 2 Site or incorporated into the Work without such review.

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- (b) Certificates shall clearly identify the material being certified and shall include but not be limited to providing the following information: TANK CONTRACTOR's name, Phase 2 Project name, reference to this Tank Contract, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section and paragraph number, all as applicable.
  - (c) All other data shall be submitted as required by the Tank Contract Documents.
- (7) TANK CONTRACTOR Furnished Manuals and Spare Parts Lists
- TANK CONTRACTOR shall prepare and submit to PURCHASER Operating Manuals and Spare Parts Lists in accordance with the requirements of Exhibit "D."
- (8) As-Built Drawings and Specifications
- (a) Drawings:
    - (a.1) Progress As-Builts. During construction, TANK CONTRACTOR shall keep a marked-up-to-date set of as-built blueline drawings on the Phase 2 Site as an accurate record of all deviations between Work as shown and Work as installed. These drawings shall be available to PURCHASER for inspection at any time during regular business hours.
    - (a.2) Final As-Builts. TANK CONTRACTOR shall at its expense and not later than thirty (30) Days after Mechanical Completion furnish to PURCHASER a complete set of marked-up as-built reproducible drawings with "AS-BUILT" clearly printed on each sheet. TANK CONTRACTOR shall accurately and neatly transfer all deviations from progress as-builts to final as-builts. As-built drawings shall be provided where specified and as required to reflect as-built conditions.
  - (b) Specifications:
    - (b.1) Progress As-Builts. During construction, TANK CONTRACTOR shall keep a marked-up-to-date set of as-built specifications on the Phase 2 Tank Site annotated to clearly indicate all substitutions that are incorporated into the Work. Where selection of more than one product is specified, annotation shall show which product was installed. These specifications shall be available to PURCHASER for inspection at any time during regular business hours.



(b.2) Final As-Builts. TANK CONTRACTOR shall at its expense and not later than thirty (30) Days after Mechanical Completion furnish to PURCHASER a complete set of marked-up as-built specifications with "AS-BUILT" clearly printed on the cover. TANK CONTRACTOR shall accurately and neatly transfer all annotations from progress as-builts to final as-builts.

(c) Endorsement:

TANK CONTRACTOR shall sign each final as-built drawing and the cover of the as-built specifications and shall note thereon that the recording of deviations and annotations is complete and accurate.

(9) PURCHASER and TANK CONTRACTOR agree the drawings, design calculations and specifications listed in Exhibit "I" are pre-approved and need not be re-submitted for approval, but will be issued for construction, provided that TANK CONTRACTOR does not modify or change such drawings, design calculations or specifications from Phase I; and provided further that nothing herein shall relieve TANK CONTRACTOR of its obligations under this Tank Contract, particularly SC-3.1.

#### **SC-8 SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK**

- 8.1 The Work shall be performed on a turnkey basis and shall include all of the Work required to achieve RFCD, Provisional Acceptance and Final Acceptance in accordance with the requirements of this Tank Contract. TANK CONTRACTOR shall perform the Work in accordance with GECP, Applicable Law, applicable codes and standards, and all other terms and provisions of this Tank Contract, with the explicit understanding that the Phase 2 Tanks will receive, store and discharge LNG meeting the requirements of this Tank Contract. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as necessary to complete the Phase 2 Tanks in accordance with GECP, Applicable Law, applicable codes and standards, and all other terms and provisions of this Tank Contract, excluding only those items which PURCHASER has specifically agreed to provide under the terms of this Tank Contract. Without limiting the generality of the foregoing, the Work is more specifically described below and in Exhibit "D."
- 8.2 The Scope of Work for the Phase 2 Tanks shall include the engineering, procurement and construction of two (2) LNG tanks, designated "Tank S-104," and "Tank S-105" in accordance with the Tank Contract Documents.
- 8.3 PURCHASER shall have the option, subject to TANK CONTRACTOR's agreement pursuant to SC-8.5, to increase the Scope of Work to include:
- (1) "Option 1" – an additional one (1) LNG tank, designated "Tank S-106," to be engineered, procured and constructed by TANK CONTRACTOR in accordance

with the Tank Contract Documents, provided that PURCHASER gives notice to TANK CONTRACTOR of its intent to elect such option on or prior to March 31, 2007 (unless otherwise mutually extended by agreement by the Parties).

- 8.4 Subject to SC-8.5, if PURCHASER exercises Option 1, PURCHASER shall give TANK CONTRACTOR notice of its intent to exercise Option 1. TANK CONTRACTOR shall, within sixty (60) Days of such notice, provide PURCHASER with a proposal for Option 1, setting forth the effect of such option on the Tank Contract Price, including all costs, overhead and profit, and a proposed Tank Contract Milestone Date for Mechanical Completion of Tank S-106, based on a notice to proceed issued by PURCHASER for Tank S-106 ("NTP Tank 3"). If PURCHASER agrees to TANK CONTRACTOR's proposal, the Parties shall execute a Change Order modifying the Tank Contract Price and adding the Tank Contract Milestone Date for Tank S-106. If PURCHASER does not agree to TANK CONTRACTOR's proposal, then the Parties shall meet to try to reach agreement on the Tank Contract Price and the new Tank Contract Milestone Date for Tank S-106.
- 8.5 PURCHASER's exercise of Option 1 shall not be effective, and TANK CONTRACTOR shall not be obligated to perform the work under Option 1, until PURCHASER and TANK CONTRACTOR execute a Change Order to memorialize the above changes in SC-8.3 and SC-8.4 to the Tank Contract with respect to Option 1. Notwithstanding PURCHASER's exercise of Option 1, TANK CONTRACTOR shall not be obligated to accept or agree to the exercise of either Option 1 or to execute a Change Order with respect to Option 1. TANK CONTRACTOR shall not be obligated to perform the work contemplated by Option 1, unless and until TANK CONTRACTOR executes a Change Order agreeing to the exercise of Option 1.
- 8.6 Notwithstanding anything to the contrary under the Tank Contract, TANK CONTRACTOR shall not have the right to seek adjustment of any terms with respect to Tank S-104 and Tank S-105 (including the Tank Contract Price and Tank Contract Milestone Dates for Tank S-104 and Tank S-105) due to the exercise of Option 1.
- 8.7 TANK CONTRACTOR shall complete the Work under the Tank Contract to meet the following Tank Contract Milestone Dates:

<u>Tank Contract Milestone</u>	<u>Tank Contract Milestone Date</u>
Mechanical Completion of First Tank (S-104)	March 24, 2009
Mechanical Completion of Second Tank (S-105)	June 3, 2009

The Tank Contract Milestone Date for RFCD for Tank S-104 and Tank S-105, and all other Work, is conditioned upon PURCHASER giving a NTP for Tank S-104 and Tank

S-105 no later than July 25, 2006 (excluding any Work on the Phase 2 Tank Site) and giving access to TANK CONTRACTOR to the Phase 2 Tank Site to perform Work on the Phase 2 Tank Site (including starting pile testing, subsequent production piling and all other Work for Tank S-104 and Tank S-105) no later than August 14, 2006. If TANK CONTRACTOR is given such NTP after July 25, 2006, or if TANK CONTRACTOR is given such access after August 14, 2006, TANK CONTRACTOR must take reasonable steps to mitigate the effects of any such delay in providing such NTP or access; if and to the extent TANK CONTRACTOR is unable to mitigate such delay, the dates in the Tank Contract Schedule, including the Tank Contract Milestone Dates, shall be extended as necessary, but such extension shall not exceed the number of days after July 25, 2006, or August 14, 2006, respectively, that TANK CONTRACTOR is given NTP or such access. Except as otherwise provided in the preceding sentence, notwithstanding anything to the contrary, the Tank Contract Milestone Dates shall not be adjusted except by Change Order.

- 8.8 The Target Milestone Date for Mechanical Completion of Tank S-104 is February 10, 2009, and the Target Milestone Date for Mechanical Completion of Tank S-105 is April 21, 2009.
- 8.9 PURCHASER shall not issue an NTP for the Phase 2 Tanks until PURCHASER has furnished to TANK CONTRACTOR reasonable documentation that demonstrates that PURCHASER (i) has sufficient funds to fulfill its payment obligations under this Tank Contract, or (ii) has obtained financing from one or more Lenders to fulfill its payment obligations hereunder for the Phase 2 Tanks, and provided evidence of the execution of the credit agreement with respect to such financing.
- 8.10 In advance, TANK CONTRACTOR shall give PURCHASER all information reasonably requested as to its plans for performing each part of the Work. If at any time, TANK CONTRACTOR's actual progress is inadequate to meet the requirements of this Tank Contract, PURCHASER may notify TANK CONTRACTOR to provide a plan necessary to improve its progress. If, within a reasonable period as determined by PURCHASER, TANK CONTRACTOR does not improve performance to meet the Tank Contract Milestone Dates set forth above, PURCHASER may require an increase in TANK CONTRACTOR's labor force, the number of shifts, overtime operations, additional days of work per week, expedited shipment(s) of equipment and materials, and an increase in the amount of construction plant and equipment, all without additional cost to PURCHASER. Neither such notice nor PURCHASER's failure to issue such notice shall relieve TANK CONTRACTOR of its obligation to achieve the quality of work and rate of progress required by this Tank Contract.
- 8.11 Noncompliance with PURCHASER's instructions shall be grounds for PURCHASER's determination that TANK CONTRACTOR is not prosecuting the Work with such diligence as will assure completion within the times specified. Upon such determination, PURCHASER may terminate this Tank Contract pursuant to General Condition 45, titled TERMINATION FOR DEFAULT.

- 8.12 Prior to giving the NTP for Tank S-104 and Tank S-105, PURCHASER may authorize TANK CONTRACTOR to perform a portion of the Work under a limited notice to proceed ("LNTP"). The Parties shall agree upon the scope of Work to be performed under the LNTP. Any amounts paid under the LNTP for performance of any portion of the Work shall be credited against the Tank Contract Price.

#### SC-9 TANK CONTRACT SCHEDULE

- 9.1 Within Sixty (60) Days of Notice to Proceed, TANK CONTRACTOR shall submit to PURCHASER for its written approval a Level III Schedule. PURCHASER will review and provide comments to such Level III Schedule within ten (10) Days of receipt. TANK CONTRACTOR shall make changes to the Level III Schedule based on PURCHASER's comments and re-submit the Level III Schedule to PURCHASER, unless TANK CONTRACTOR claims that any comments from PURCHASER are unreasonable, in which case TANK CONTRACTOR shall provide a written explanation to PURCHASER as to why it considers such comments to be unreasonable. The Parties shall discuss any comments claimed to be unreasonable and attempt to reach agreement on the Level III Schedule. Once PURCHASER has approved the Level III Schedule, it shall be the "Tank Contract Schedule." The schedule shall consist of a precedence network diagram using the critical path method (CPM) to show each individual essential activity in sequence to meet the Target Milestone Dates for each Phase 2 Tank. The diagram shall show durations and dependencies including off-Site activities such as design, fabrication of equipment, procurement, delivery of materials, and items to be furnished by PURCHASER.
- 9.2 TANK CONTRACTOR shall utilize Primavera (P3) software to produce the Level III Schedule and the Tank Contract Schedule and shall adhere to the work breakdown structure, activity code structure and calendars utilized by PURCHASER.
- 9.3 The activity listing shall show the following information for each activity on the diagram: Identification by activity ID number; Description of the task or event; Duration; Personnel by craft; equipment; earliest start and finish dates; and latest start and finish dates.
- 9.4 In addition TANK CONTRACTOR shall submit a complementary and detailed narrative description of its plan for performing the Work. The narrative description shall detail the equipment and personnel requirements by craft to complete a resource loaded schedule.
- 9.5 TANK CONTRACTOR shall promptly inform PURCHASER of any proposed changes to the durations, dependencies of activities, logic or critical path of the Tank Contract Schedule and any proposed changes to the narrative and shall furnish PURCHASER with a revised Tank Contract Schedule and narrative for PURCHASER's review and comment within ten (10) Days after notice to PURCHASER of such change. The Tank Contract Schedule and narrative shall be kept up to date, taking into account the actual Work progress and shall be revised and updated every thirty (30) Days to reflect the actual progress of the Work, as well as a current forecast of future activity schedule dates. The Tank Contract Schedule and narrative, as revised and updated, shall, as reasonably determined by PURCHASER, be sufficient to meet the requirements for completion of any separable part and all of the Work as set forth in this Tank Contract.

- 9.6 During the performance of the Work, TANK CONTRACTOR shall submit to PURCHASER periodic reports on the actual progress. Such progress reports shall include the following:
1. Monthly A copy of the Tank Contract Schedule showing actual progress to date for the major parts of the Work, as compared to planned progress, a forecast of future activity schedule dates, an analysis of the critical path activities progress and status, and a notification and explanation if the critical path activities are projected to be delayed from the original Tank Contract Schedule dates;
  2. Monthly TANK CONTRACTOR will submit a summary of actual hours expended performing the Work. Jobhours will be categorized by non-manual and manual and will be utilized to publish safety statistics. Manual are craft labor including foremen (e.g. pipe fitters, welders, electricians, laborers, carpenters, ironworkers) whereas non-manual are non-craft labor (e.g. field engineers, superintendents, safety representatives, accountants);
  3. Monthly A jobhour comparison by craft of actual versus planned staffing;
  4. Weekly A three-week look-ahead personnel forecast by craft. Variation from approved schedules and plans shall be noted and rationalized;
  5. Weekly A rolling four-week schedule showing one week actual progress and a three-week look-ahead forecast. Variation from approved schedules and plans shall be noted and rationalized;
  6. Weekly A weekly report of quantities installed versus total quantities on items of the Work selected by PURCHASER; and
  7. Daily A daily force report listing all personnel by craft and work assignment; and equipment utilized in the Work.
- 9.7 Schedules and reports shall be furnished in hardcopy and/or native electronic files as specified by PURCHASER.

**SC-10 TEMPORARY ACCESS AND HAUL ROADS**

- 10.1 TANK CONTRACTOR shall, at its expense, maintain temporary access and haul roads, except as provided in Special Condition 4, titled PURCHASER-FURNISHED UTILITIES AND FACILITIES, as may be necessary for the proper performance of this Tank Contract.

10.2 ACCESS TO PHASE 2 TANK SITE, ETC.

- (1) PURCHASER shall provide reasonable notice of any request for access to the Phase 2 Tank Site by (i) any of PURCHASER'S other contractors or subcontractors seeking to perform work at the Phase 2 Tank Site or (ii) any Landowner. TANK CONTRACTOR agrees to use reasonable efforts to accommodate such request and TANK CONTRACTOR agrees to coordinate the performance of the Work with such other contractors or subcontractors performing work at the Phase 2 Tank Site so as not to materially interfere with any of PURCHASER'S other contractors or subcontractors performing work at the Phase 2 Tank Site. If PURCHASER's other contractors or subcontractors perform work at the Phase 2 Tank Site and materially interfere with TANK CONTRACTOR's Work, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.
- (2) TANK CONTRACTOR shall coordinate its access to and from the Phase 2 Tank Site to ensure that TANK CONTRACTOR does not interfere with the construction or operation of the Phase 1 Facility or the remainder of the Phase 2 Facility. TANK CONTRACTOR shall not access any portion of the Site, the Phase 1 Site or the remainder of the Phase 2 Site, without express written permission from PURCHASER, if such access would interfere with or hinder the construction or operation of the Phase 1 Facility or the remainder of the Phase 2 Facility. During the performance of the Work or TANK CONTRACTOR's other obligations under this Tank Contract, if an unforeseen situation arises that could potentially interfere with the construction or operation of the Phase 1 Facility or the remainder of the Phase 2 Facility, TANK CONTRACTOR shall provide to PURCHASER, as soon as possible but no later than seven (7) Days prior to the time that TANK CONTRACTOR intends to perform such Work, a written plan listing the potentially interfering Work and proposing in detail how such Work will be performed to avoid interference with the construction or operation of the Phase 1 Facility or the remainder of the Phase 2 Facility. Prior to performing such Work, PURCHASER and TANK CONTRACTOR shall mutually agree upon a plan, including an applicable schedule for performance, for TANK CONTRACTOR to execute such Work. If TANK CONTRACTOR's compliance with this SC-10.2(2) causes a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.
- (3) If there is any overlap between the Phase 2 Tank Site and the Phase 1 Site, such overlap shall be considered to be the Phase 1 Site.

**SC-11 SAFETY, HEALTH AND SECURITY REQUIREMENTS**

- 11.1 In the development and implementation of its S&H Plan and performance of the Work, TANK CONTRACTOR shall conform and comply with the SAFETY AND HEALTH (S&H) STANDARDS set forth in Exhibit "B" Appendix B-2, and with any subsequent safety and health standards issued by PURCHASER after the Effective Date, including

any safety and health standards or procedures relating to the construction, testing or operation of the Phase 1 Facility, and including any such standards issued in Operating Plant Procedures. If TANK CONTRACTOR's compliance with any safety and health standards issued by PURCHASER or Management Contractor after the Effective Date causes a change in the Work affecting the cost or the Tank Contract Schedule, and such requirements are not required by Applicable Law, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

- 11.2 TANK CONTRACTOR shall not, without prior written approval of PURCHASER, subcontract with any entity whose safety ratings for the previous year exceed the following:

Interstate EMR:	1.0
State EMR:	1.0
LWDC:	2.5
OSHA Recordable:	3.5

- 11.3 In performance of the Work under this Tank Contract, TANK CONTRACTOR shall establish and maintain a security program, implementing and supplementing Project security requirements. This shall include a written Security Plan ("Security Plan") which shall be submitted to PURCHASER for review and approval within ninety (90) Days after the Effective Date and in any event prior to commencing Work at the Phase 2 Tank Site. Such program shall include:

- (1) Controlled access to office, warehouse, material and equipment sites.
- (2) Physical security of office, warehouse, material and equipment sites, to include periodic security checks of all work areas assigned to TANK CONTRACTOR.
- (3) Control of material and equipment packaging, transportation, and delivery to the Phase 2 Tank Site.
- (4) Accountability procedures for storage, requisition and issue of material and equipment.
- (5) Personnel security to include, but not limited to, compliance with Project work rules (access, badging, prohibited activities and items, etc.).
- (6) Communications security to include, but not limited to, use of radios, radio finders, beacons, etc.
- (7) Compliance with the project emergency response plan, submitted to FERC, to include, but not limited to, emergency notification lists, personnel accountability procedures, etc. The project emergency response plan may be updated or supplemented after the Effective Date from time to time, including when

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PURCHASER issues Operating Plant Procedures, and TANK CONTRACTOR agrees to comply with any such updates and supplements. If TANK CONTRACTOR's compliance with any such updates causes a change in the Work affecting the cost or the Tank Contract Schedule, TANK CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

- (8) Compliance with all Phase 1 and Phase 2 Project security programs and the coordination measures, with PURCHASER and others on the Phase 2 Site, established for that purpose.
- (9) Prompt reporting of incidents of loss, theft or vandalism to PURCHASER, subsequently detailed and provided in writing.

TANK CONTRACTOR's Security Plan shall be added as an appendix to its Project S&H Plan.

#### **SC-12 EXPLOSIVES**

- 12.1 Explosives shall be transported to the Phase 2 Tank Site only when required to perform the Work under this Tank Contract and with prior notice to and written approval of PURCHASER. TANK CONTRACTOR shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work. TANK CONTRACTOR shall employ competent and qualified personnel for the use of explosives and, notwithstanding any other provision in the Tank Contract to the contrary, shall assume full responsibilities for the cost of any incidental or consequential damages caused by the improper use of explosives. Residual surplus explosives shall be promptly removed from the Phase 2 Tank Site and properly disposed of by TANK CONTRACTOR.

#### **SC-13 LETTER OF CREDIT**

- 13.1 No later than three (3) Business Days after the issuance of the Notice to Proceed, TANK CONTRACTOR shall furnish an irrevocable standby letter of credit, in the amount of five percent (5%) of the Tank Contract Price, naming PURCHASER as a beneficiary ("Letter of Credit"), in the form attached hereto as Exhibit "B," Appendix B-15.
- 13.2 The Letter of Credit must be issued by a bank acceptable to PURCHASER, and such Letter of Credit shall remain in effect until PURCHASER issues a Final Acceptance Certificate for all of the Phase 2 Tanks and PURCHASER gives notice to the issuing bank to release the Letter of Credit. If at any time or times the Tank Contract Price is increased by Change Order by at least one percent (1%) of the Tank Contract Price, in the aggregate, TANK CONTRACTOR agrees to increase the amount of the Letter of Credit to five percent (5%) of the adjusted Tank Contract Price.



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**SC-14 MEASUREMENT FOR PAYMENT**

- 14.1 Set forth in Exhibit "C" is a cash flow curve showing the anticipated payment schedule for the Tank Contract Price. To establish a more definite basis for payment according to Milestones, TANK CONTRACTOR shall, within fourteen (14) Days after Notice to Proceed, submit a payment schedule for payment of TANK CONTRACTOR's progress during the first ninety (90) Days of Work after NTP, which subject to PURCHASER's approval shall govern payment to TANK CONTRACTOR during such ninety (90) Days. Within sixty (60) Days after Notice to Proceed, TANK CONTRACTOR shall submit to PURCHASER for its approval a Milestone payment schedule setting forth Milestones for the Phase 2 Tanks as a whole, which shall be substantially in compliance with the Exhibit "C" cash flow curve. After approval by PURCHASER, the Milestone payment schedule submitted by TANK CONTRACTOR shall establish the milestones for progress payments ("Payment Milestones") under this Tank Contract (the schedule showing the list of Payment Milestones is referred to as "Milestone Payment Schedule"). Such Milestone Payment Schedule shall be inserted into Exhibit "C" as a part of Exhibit "C" and shall supersede the cash flow curve in Exhibit "C" in its entirety. Once approved, the Milestone Payment Schedule, including Payment Milestones, shall be amended only by Change Order pursuant to this Tank Contract.
- 14.2 By the fifth (5th) Day of each calendar month, TANK CONTRACTOR shall submit to PURCHASER a written statement ("Payment Milestone Statement"), supported by information and documentation required under this Tank Contract, with a list of Payment Milestones that TANK CONTRACTOR fully completed during the immediately preceding calendar month. TANK CONTRACTOR shall not include in such list any Payment Milestones that were only partially complete at the end of the immediately preceding calendar month.
- 14.3 If TANK CONTRACTOR performs any Work under a Change Order and such Work is paid under a method other than the use of Payment Milestones, TANK CONTRACTOR shall make all surveys necessary for determining all quantities of Work to be paid under this Tank Contract. Copies of field notes, computations and other records made by TANK CONTRACTOR for the purpose of determining quantities shall be furnished to PURCHASER upon request. TANK CONTRACTOR shall notify PURCHASER prior to the time such surveys are made. PURCHASER, at its sole discretion, may witness and verify such surveys. Measurements and computations shall be made by such methods as PURCHASER may consider appropriate for the class of work measured and the estimate of quantities of Work completed shall be compatible with the reporting requirements of Special Condition 9, titled TANK CONTRACT SCHEDULE. The dividing limits, lines or planes between adjacent items or classes of excavation, concrete, or other types of work where not definitely indicated on the drawings or in the specifications shall be as determined by PURCHASER.

**SC-15 INVOICING AND PAYMENT**

- 15.1 No later than five (5) Days after (i) the issuance of the Notice to Proceed by PURCHASER, (ii) receipt of an Invoice, and (iii) receipt by PURCHASER of the Letter of Credit, PURCHASER shall make an initial payment to TANK CONTRACTOR in the amount of five percent (5%) of the Tank Contract Price.

- 15.2 With respect to all invoices ("Invoices") after the Invoice described in SC-15.1, TANK CONTRACTOR shall prepare and submit such Invoices as follows:
- (1) Based on and in conjunction with the Payment Milestone Statement, TANK CONTRACTOR shall submit an Invoice by the fifth (5th) Day of each calendar month for the Payment Milestones completed through the end of the previous calendar month;
  - (2) PURCHASER shall review the Invoice and provide to TANK CONTRACTOR any comments on the Invoice, including any disputed amounts, within five (5) Days of receipt by PURCHASER; and
  - (3) TANK CONTRACTOR may submit a revised Invoice to take into account PURCHASER's comments no later than the tenth (10) Day of the calendar month; otherwise, TANK CONTRACTOR shall submit the revised Invoice the following month or thereafter.
- If PURCHASER does not dispute the Invoice within the time required in clause (2) above, then the Invoice shall be deemed approved for payment; provided, however, if PURCHASER subsequently discovers payment has been made for amounts that should not have been paid under the terms of this Tank Contract, the PURCHASER shall have the right to withhold the amount of such improper payment from subsequent Invoices unless such issue has been resolved. Any disputed amounts shall be resolved in accordance with the terms of the Tank Contract, including the provisions of SC-31.
- 15.3 TANK CONTRACTOR shall certify in each Invoice that there are no known outstanding mechanic's or materialmen's liens, and that all due and payable bills have been paid or are included in the Invoice.
- 15.4 As a condition of payment, each Invoice received by PURCHASER prior to Provisional Acceptance shall be accompanied by a fully executed (i) Interim Conditional Lien Waiver from TANK CONTRACTOR in the form of Exhibit "B" Appendix B-10 Form B-10-1 for all Work performed through the date of the Invoice for which payment is requested and (ii) Interim Unconditional Lien Waiver from TANK CONTRACTOR in the form of Exhibit "B" Appendix B-10 Form B-10-2 for all Work performed through the date of the last Invoice submitted by TANK CONTRACTOR. In addition, as a condition of payment, TANK CONTRACTOR shall also provide (i) fully executed Interim Conditional Lien Waivers in the form of Exhibit "B" Appendix B-10 Form B-10-3 from each Major Subcontractor whose invoice is received by TANK CONTRACTOR in the calendar month covered by TANK CONTRACTOR's Invoice (with each such Interim Conditional Lien Waiver covering all Work performed by each such Major Subcontractor through the date of such Major Subcontractor's invoice), together with fully executed Interim Unconditional Lien Waivers in the form set forth in Exhibit "B" Appendix B-10 Form B-10-4 from each Major Subcontractor for all Work performed by such Major

Subcontractor through the date of each such Major Subcontractor's preceding invoice; (ii) fully executed Interim Conditional Lien Waivers in the form of Exhibit "B" Appendix B-10 Form B-10-3 from each Major Subsubcontractor whose invoice is received by TANK CONTRACTOR in the calendar month covered by TANK CONTRACTOR's Invoice (with each such Interim Conditional Lien Waiver covering all Work performed by each such Major Subsubcontractor through the date of such Major Subsubcontractor's invoice), together with fully executed Interim Unconditional Lien Waivers from each Major Subsubcontractor in the form set forth in Exhibit "B" Appendix B-10 Form B-10-4 for all Work performed by such Major Subsubcontractor through the date of each such Major Subsubcontractor's preceding invoice; provided that if TANK CONTRACTOR fails to provide to PURCHASER an Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver from a Major Subcontractor or Major Subsubcontractor as required, PURCHASER's right to withhold payment for the failure to provide any such Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver shall be limited to the amount that should have been reflected in such Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver.

- 15.5 TANK CONTRACTOR hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by TANK CONTRACTOR against any or all of the Work, the Facility or the Site to any liens granted in favor of Lender, whether such lien in favor of Lender is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subsubcontractors to similarly subordinate their lien, claim and encumbrance rights. TANK CONTRACTOR agrees to comply with reasonable requests of PURCHASER for supporting documentation required by Lender in connection with such subordination, including any necessary lien subordination agreements. Nothing in this Article shall be construed as a limitation on or waiver by TANK CONTRACTOR of any of its rights under Applicable Law to file a lien or claim or otherwise encumber the Facility as security for any undisputed payments owed to it by PURCHASER hereunder which are past due; *provided that* such lien, claim or encumbrance shall be subordinate to any liens granted in favor of Lenders.
- 15.6 Within thirty (30) Days after receipt of a correct Invoice, PURCHASER will pay TANK CONTRACTOR ninety-five percent (95%) of the correct Invoice amount, retaining the balance ("Retainage"). If there are any disputed amounts in an Invoice which PURCHASER has notified TANK CONTRACTOR of in accordance with SC-15.2, PURCHASER shall pay all undisputed amounts in the Invoice. Subject to the terms of the Tank Contract Price (including the right to withhold payment for Defective Work), one-half of the Retainage shall be paid to TANK CONTRACTOR upon Provisional Acceptance of Tank S-104 and one-half of the Retainage shall be paid to TANK CONTRACTOR upon Provisional Acceptance of the final Phase 2 Tank.
- 15.7 Amounts otherwise payable under this Tank Contract may be withheld, in whole or in part, if:
- (1) TANK CONTRACTOR is in default of any Tank Contract condition including, but not limited to, the schedule, quality assurance and health and safety requirements; or

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- (2) TANK CONTRACTOR has not submitted:
- (a) The Tank Contract Schedule, including any revisions or updates, as required by Special Condition 9, titled TANK CONTRACT SCHEDULE;
  - (b) Proper insurance certificates, or not provided proper coverage or proof thereof;
  - (c) PURCHASER approved securities; and
  - (d) Interim Lien Waivers from TANK CONTRACTOR, Major Subcontractors and Major Subsubcontractors.
- (3) Adjustments are due from previous overpayment or audit results.
- 15.8 PURCHASER will make payments of such amounts withheld in accordance with SC-15.6 above if TANK CONTRACTOR cures all defaults in the performance of this Tank Contract.
- 15.9 If claims filed against TANK CONTRACTOR connected with performance under this Tank Contract, for which PURCHASER may be held liable if unpaid (e.g., unpaid withholding and back Taxes), are not promptly removed by TANK CONTRACTOR within seven (7) Days after receipt of written notice from PURCHASER to do so, PURCHASER may remove such claims and deduct all costs in connection with such removal from withheld payments or other monies due, or which may become due, to TANK CONTRACTOR. If the amount of such withheld payment or other monies due TANK CONTRACTOR under this Tank Contract is insufficient to meet such costs, or if any claim against TANK CONTRACTOR is discharged by PURCHASER after final payment is made, TANK CONTRACTOR and its surety or sureties, if any, shall promptly pay PURCHASER all costs incurred thereby regardless of when such claim arose or whether such claim imposed a lien upon the Work, the Facility or the Site.
- 15.10 Upon receipt by TANK CONTRACTOR of PURCHASER's Provisional Acceptance Certificate for the last Phase 2 Tank under this Tank Contract, TANK CONTRACTOR shall prepare and submit its final invoice ("Final Invoice"), together with (i) a statement summarizing and reconciling all previous Invoices, payments and Change Orders; (ii) an affidavit that all payrolls, Taxes, bills for material and equipment, and any other indebtedness connected with the Work for which TANK CONTRACTOR and its Subcontractors and Subsubcontractors are liable (excluding Corrective Work) have been paid; (iii) fully executed Final Conditional Lien and Claim Waiver from TANK CONTRACTOR in the form of Exhibit "B" Appendix B-10, Form B-10-5, (iv) fully executed Final Conditional Lien and Claim Waivers from each Major Subcontractor and each Major Subsubcontractor in the form set forth in Exhibit "B" Appendix B-10 Form B-10-7. No later than thirty (30) Days after receipt by PURCHASER of such Final Invoice and all required and reasonably requested documentation and achieving Provisional Acceptance of the last Phase 2 Tank, PURCHASER shall, subject to its rights to withhold payment under this Tank Contract, pay TANK CONTRACTOR the balance

- of the Tank Contract Price (including any remaining Retainage), provided that TANK CONTRACTOR provides to PURCHASER at or before the time of such payment the following: (i) fully executed Final Unconditional Lien and Claim Waiver from TANK CONTRACTOR in the form of Exhibit "B" Appendix B-10 Form B-10-6 and (ii) fully executed Final Unconditional Lien and Claim Waivers from each Major Subcontractor and each Major Subsubcontractor in the form of Exhibit "B" Appendix B-10 Form B-10-8. Notwithstanding the above, PURCHASER shall not withhold from final payment an amount greater than the amount(s) in dispute.
- 15.11 After PURCHASER issues the Final Acceptance Certificate for the last of the Phase 2 Tanks, PURCHASER shall give notice to the issuing bank to release the Letter of Credit.
- 15.12 No payments of Invoices or portions thereof shall at any time constitute approval or acceptance of any Work under this Tank Contract, nor be considered a waiver by PURCHASER of any of the terms of this Tank Contract. Title to all equipment and materials which has vested in PURCHASER pursuant to General Condition 34, titled TITLE AND RISK OF LOSS, however, shall not be part of TANK CONTRACTOR's property or estate, unless otherwise specified by Applicable Law, in the event TANK CONTRACTOR is adjudged bankrupt or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of TANK CONTRACTOR's insolvency, or if all or any portion of this Tank Contract is terminated.
- 15.13 TANK CONTRACTOR shall submit all Invoices in original and two (2) copies to:
- |            |                                                     |               |                                                     |
|------------|-----------------------------------------------------|---------------|-----------------------------------------------------|
| PURCHASER: | Sabine Pass LNG, L.P.                               | with copy to: | Sabine Pass LNG, L.P.                               |
| Address:   | 717 Texas Avenue<br>Suite 3100<br>Houston, TX 77002 | Address:      | 717 Texas Avenue<br>Suite 3100<br>Houston, TX 77002 |
| Attention: | Accounts Payable                                    | Attention:    | Ed Lehotsky                                         |
| Facsimile: | 713-659-5459                                        | Telephone:    | 713-265-0206                                        |
|            |                                                     | Facsimile:    | 713-659-5459                                        |

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And  
with copy to: Sabine Pass LNG, L.P.  
Address: 717 Texas Avenue  
Suite 3100  
Houston, TX 77002  
Attention: David Mitchell  
Telephone: 832-204-2293  
Facsimile: 713-659-5459

- 15.14 Any amounts due but not paid hereunder, any amounts withheld from TANK CONTRACTOR but later finally determined in accordance with the dispute resolution procedure set forth in SC-41 to have been improperly withheld, or any amounts collected by PURCHASER on the Letter of Credit but later finally determined in accordance with the dispute resolution procedure set forth in SC-31 to have been improperly collected, shall bear interest at the lesser of (i) an annual rate equal to the prime rate set from time to time by Citibank, N.A. plus three percent (3%), or (ii) the maximum rate permitted under Applicable Law.

#### **SC-16 PRICING OF ADJUSTMENTS**

- 16.1 When pricing is a factor in any determination of a Tank Contract adjustment pursuant to the General Condition 32, titled CHANGES, or General Condition 33, titled DISPUTES, TANK CONTRACTOR shall propose upward or downward price adjustments in one of the following methods, as directed by PURCHASER;
- (1) Estimated Lump Sum Price  
When TANK CONTRACTOR is directed to provide a lump sum price adjustment, it shall provide cost breakdown information for the purpose of and in sufficient detail to permit analysis and negotiation including but not limited to engineering, fabrication, labor categories, labor hours, equipment hours and material quantities and other supporting data upon which the lump sum is based.
  - (2) Cost Reimbursable Basis  
If for any reason PURCHASER and TANK CONTRACTOR are unable to agree upon a lump sum Tank Contract Price adjustment the following provisions, which establish and define allowable costs and rates for force account work, shall also define allowable costs and rates for a determination by PURCHASER. TANK CONTRACTOR shall establish separate cost accounting records, subject to daily end-of-the day written approval by PURCHASER of all allocable costs on a force account basis. Reimbursement of reasonable and approved incurred costs, plus

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specified rates for overhead and profit, as defined below, shall be the basis for force account adjustment of the Tank Contract Price. Upon request by PURCHASER, TANK CONTRACTOR shall provide PURCHASER with copies of the fixed rates below for labor and equipment.

(a) Direct Labor

Wage rates for Field Labor shall be governed by Special Condition 45, titled WAGE ADJUSTMENTS. Incurred direct labor wages for salaried personnel working directly on the change shall be paid according to TANK CONTRACTOR's salary schedule (sorted by classification). TANK CONTRACTOR shall provide PURCHASER with such salary schedule within thirty (30) Days of Notice to Proceed, and such schedule shall not be subject to adjustment, except on an annual basis by mutual agreement between the Parties.

PURCHASER shall approve timesheets on a daily basis. Timesheets shall be in sufficient detail to identify the Change Order, activities performed, the labor categories and applicable labor rate and hours expended. PURCHASER shall have access to TANK CONTRACTOR's certified payroll records for verification of labor costs.

(b) Equipment

Approved incurred construction equipment, facilities and vehicle costs (exclusive of Taxes) at fixed rates are allowable. Construction equipment has an original purchase price of more than US\$500. Small tools and equipment having original purchase prices of less than US \$500 each, are deemed to be covered in the overhead and profit rates established by this clause. If operating costs such as fuel oil and grease are not included in rental rates they are also allowable.

- (i) TANK CONTRACTOR shall provide PURCHASER with rates for construction equipment, facilities and vehicles within thirty (30) Days after Notice to Proceed; such rates are not subject to adjustment, except on an annual basis by mutual agreement between the Parties.
- (ii) When the operated use of equipment is infrequent and, as determined by PURCHASER, such equipment need not remain at the work site continuously, charges shall be limited to actual hours of use. Equipment not operating but retained at the location of changes at PURCHASER's direction shall be charged at the standby rate.
- (iii) For the cost of both rented and owned equipment to be allowable, PURCHASER must agree in writing, prior to their being used, that the individual pieces of equipment are needed, are appropriate for the work, and that the mobilization and demobilization costs are allocable to the change and acceptable. This is in addition to the daily end-of-day approval of operating time for such equipment.

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- (c) **Materials**  
Approved incurred costs for material incorporated into the changed Work or required for temporary construction facilities made necessary by the change shall be allowable at net cost (exclusive of sales and use Tax) delivered to the Phase 2 Site plus ten percent (10%) overhead and profit for TANK CONTRACTOR.
- (d) **Subcontracts and Subsubcontracts**  
Approved incurred costs for Subcontract and Subsubcontract tasks shall be allowable plus ten percent (10%) overhead and profit for TANK CONTRACTOR for changes resulting in a Tank Contract price adjustment, including this percentage markup, of less than US \$250,000, or will pay five percent (5%) for changes resulting in adjustments of US \$250,000 or more; provided that PURCHASER has approved the Subcontract or Subsubcontract pursuant to General Condition 42, titled ASSIGNMENTS AND SUBCONTRACTS before any Work is performed.

**SC-17 NOT USED**

**SC-18 QUALITY SURVEILLANCE INSPECTIONS**

PURCHASER designated equipment or materials furnished by TANK CONTRACTOR shall not be deemed accepted until inspected by PURCHASER's or PURCHASER's representative in accordance with Exhibit "B," Appendix B-1 GENERAL REQUIREMENTS FOR TANK CONTRACTOR QUALITY SYSTEMS.

**SC-19 TRAINING PROGRAM**

To provide trained operation and maintenance (O&M) personnel for PURCHASER'S O&M program, TANK CONTRACTOR shall support PURCHASER in the development and implementation of a program for training of PURCHASER nominated trainees in operating and maintaining the Phase 2 Tanks and systems/subsystems constructed and installed under this Tank Contract. Upon completion of the training program, the training aids, tools, test equipment, training manuals and other materials specific to the program shall be transferred to PURCHASER and PURCHASER may make video recordings of all training sessions for PURCHASER'S use.

**SC-20 LIQUIDATED DAMAGES**

- 20.1 The Parties hereby agree that the damages which PURCHASER will sustain as a result of TANK CONTRACTOR's failure to meet key Tank Contract Milestone Dates are difficult or impossible to determine with certainty and, therefore, have in good faith estimated as fair compensation the liquidated damages ("Liquidated Damages") as set forth



below. If TANK CONTRACTOR fails to deliver the equipment or materials or perform the Work within the time frames specified in the Tank Contract for the Tank Contract Milestone Dates listed below, or any extensions evidenced by a Change Order or duly executed Tank Contract amendment, TANK CONTRACTOR shall pay to PURCHASER as fixed, agreed and Liquidated Damages for each Day of delay the sum(s) specified below, which amounts shall be independently calculated for each Tank Contract Milestone indicated:

#### LIQUIDATED DAMAGES

MILESTONE DESCRIPTION	LIQUIDATED DAMAGE AMOUNT PER CALENDAR DAY
Mechanical Completion First Tank (S-104)	<p>— US \$50,000 per Day for Days 1-75 after the Tank Contract Milestone Date for Mechanical Completion for Tank S-104</p> <p>— US \$100,000 per Day for each Day more than 75 Days after Tank Contract Milestone Date for Mechanical Completion for Tank S-104</p>
Mechanical Completion Second Tank (S-105)	<p>— US \$50,000 per Day for Days 1-75 after Tank Contract Milestone Date for Mechanical Completion for Tank S-105</p> <p>— US \$100,000 per Day for each Day more than 75 Days after Tank Contract Milestone Date for Mechanical Completion for Tank S-105</p>
Mechanical Completion Third Tank (S-106, if Option 1 exercised by PURCHASER)	<p>— US \$50,000 per Day for Days 1-75 after Tank Contract Milestone Date for Mechanical Completion for Tank S-106</p> <p>— US \$100,000 per Day for each Day more than 75 Days after Tank Contract Milestone Date for Mechanical Completion for Tank S-106</p>
20.2	The application of Liquidated Damages shall not effect a change in the Tank Contract Milestone Dates or relieve TANK CONTRACTOR of its obligation to improve its progress, pursuant to Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK, and to achieve or mitigate the failure to achieve any Tank Contract Milestone Dates.
20.3	Payments of Liquidated Damages shall become due immediately upon failure to achieve a Tank Contract Milestone Date. PURCHASER shall be entitled to withhold from payments due, offset against other obligations, deduct from Retainage, and draw down on Letter(s) of Credit or performance securities any and all Liquidated Damages due from TANK CONTRACTOR.

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- 20.4 The cumulative total of all Liquidated Damages will not exceed ten percent (10%) of the total Tank Contract Price.
- 20.5 Except as set out in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK, where PURCHASER may require TANK CONTRACTOR to accelerate to recover lost schedule, and except as provided in General Condition 45, titled TERMINATION FOR DEFAULT, TANK CONTRACTOR shall have no further liability to PURCHASER for delay other than for the payment of Liquidated Damages as provided in this SC-20. It is expressly agreed that Liquidated Damages payable under this Tank Contract do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Liquidated Damages and having agreed that the amount of such Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of such Liquidated Damages.

#### **SC-21 APPLICABLE LAW**

This Tank Contract shall be governed by and interpreted under the laws of the State of Texas (without giving effect to the principles thereof relating to conflicts of law). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Tank Contract and shall be disclaimed in and excluded from any Subcontracts entered into by TANK CONTRACTOR in connection with the Work or the Project.

#### **SC-22 CONSTRUCTION MANAGEMENT**

- 22.1 PURCHASER intends to engage by contract a Management Contractor to manage the Work under this Tank Contract. TANK CONTRACTOR agrees to submit all Invoices to Management Contractor, with copy to PURCHASER; provide all notices, including without limitation notices related to changes to the Work, delays and Force Majeure, to Management Contractor, with copy to PURCHASER; treat, comply with, and abide by all communications, directives, notices and instructions from Management Contractor as if coming directly from PURCHASER under this Tank Contract. The scope of Management Contractor's authority to act of behalf of PURCHASER is set forth in Exhibit "L" to this Tank Contract, titled Scope of Management Contractor's Authority as Authorized Representative. Notwithstanding anything to the contrary, Management Contractor shall not have the authority to amend this Tank Contract (by Change Order or otherwise) or otherwise contractually bind PURCHASER without PURCHASER's express consent or ratification in writing.
- 22.2 TANK CONTRACTOR shall submit to Management Contractor copies of all documents, invoices, information, forms, policies, procedures, plans, test information, test data, and other data and information submitted or required to be submitted to PURCHASER under this Tank Contract, including all Exhibits and Appendices hereto. The address for Management Contractor for purposes of this Section is:
- Bechtel Corporation  
3000 Post Oak Boulevard  
Houston, TX 77056  
Facsimile: 713-235-1610

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PURCHASER shall designate the Person at Management Contractor who shall receive such information.

#### **SC-23 RELEASE OF CONSEQUENTIAL DAMAGES**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN ANY OTHER PROVISIONS OF THIS TANK CONTRACT, NEITHER PARTY NOR THEIR RESPECTIVE AFFILIATES SHALL BE LIABLE TO THE OTHER OR ITS AFFILIATES FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY LOSS OR DAMAGES WHETHER OR NOT FORESEEABLE, RESULTING FROM OR ARISING OUT OF THIS TANK CONTRACT REGARDLESS OF WHETHER LIABILITY IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, THE FAILURE OF ANY REMEDY HEREUNDER FOR WANT OF ITS ESSENTIAL PURPOSE, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHER BASES OF LIABILITY. SUCH EXCLUDED DAMAGES INCLUDE LOSS OF PROFITS OR REVENUE, DIMINUTION OF VALUE, LOSS OF OPPORTUNITY, LOSS OF GOODWILL, LOSS OF USE OF PROPERTY OR CAPITAL, INTEREST OR ANY OTHER FINANCING COSTS OR CLAIMS OF PURCHASER'S CUSTOMERS, OR ANY OTHER FORM OF INDIRECT OR SPECIAL DAMAGES, WHETHER OR NOT FORESEEABLE, AND WHETHER OR NOT THE RELEASED PARTY IS AWARE OF, OR HAS BEEN ADVISED OF, THE POSSIBILITY OF SUCH DAMAGES.. THE PARTIES AGREE THAT THIS SC-23 SHALL SURVIVE THE CANCELLATION, TERMINATION, EXPIRATION, DEFAULT OR ABANDONMENT OF THIS TANK CONTRACT, BUT SHALL NOT APPLY TO ANY LIQUIDATED DAMAGES PAYABLE UNDER SC-20, IF ANY. TANK CONTRACTOR AGREES THAT MANAGEMENT CONTRACTOR AND PURCHASER'S CONTRACTORS SHALL BE ENTITLED TO THE LIMITATION OF LIABILITY PROVIDED BY TANK CONTRACTOR UNDER THIS SC-23 TO THE FULL EXTENT PURCHASER IS ENTITLED TO A LIMITATION OF LIABILITY UNDER THIS SC-23, AND PURCHASER AGREES THAT TANK CONTRACTOR'S SUBCONTRACTORS AND SUBSUBCONTRACTORS SHALL BE ENTITLED TO THE LIMITATION OF LIABILITY PROVIDED BY PURCHASER UNDER THIS SC-23 TO THE FULL EXTENT TANK CONTRACTOR IS ENTITLED TO A LIMITATION OF LIABILITY UNDER THIS SC-23.

#### **SC-24 NOT USED**

#### **SC-25 MEASUREMENT SYSTEM**

TANK CONTRACTOR shall use the "English Standard" system of measurement for all designs, specifications, drawings, plans and Work except as otherwise directed in writing by PURCHASER.

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**SC-26 NOT USED****SC-27 KEY PERSONNEL**

Listed in Exhibit "B," Appendix B-11 are the positions for TANK CONTRACTOR's Key Personnel. Within thirty (30) Days after the Effective Date, TANK CONTRACTOR shall provide a list of the names of the persons TANK CONTRACTOR proposes to fill those positions, including resumes and other information related to their qualifications. Upon PURCHASER's approval, such persons shall be the Key Personnel. TANK CONTRACTOR shall not reassign or remove such Key Personnel without the prior written authorization of PURCHASER.

TANK CONTRACTOR shall ensure that Key Personnel continue to perform the part of the Work assigned to them for as long as necessary to achieve the Tank Contract requirements. TANK CONTRACTOR shall not remove any Key Personnel from the Work without prior written approval of PURCHASER. TANK CONTRACTOR shall allow a minimum of twenty-one (21) Days notice of its desire to remove any Key Personnel from the Tank Contract Work.

**SC-28 LANGUAGE REQUIREMENTS**

The Tank Contract Documents and all notices, communications and submittals between the Parties pursuant to the implementation of this Tank Contract shall be in the English language, unless otherwise directed in writing by PURCHASER. All translation services, to include the physical presence of qualified translators in both office and field, necessary for written or oral communications with PURCHASER and all members of TANK CONTRACTOR's work force or in the course of routine Phase 2 Tank Site coordination of any nature, shall be provided by TANK CONTRACTOR. TANK CONTRACTOR warrants these services and their staffing shall fully meet the standards and requirements established by PURCHASER.

**SC-29 NOT USED****SC-30 DRUGS, ALCOHOL AND WEAPONS**

- 30.1 TANK CONTRACTOR's personnel shall not bring onto the Phase 2 Tank Site, or any other location where the provisions of this Tank Contract apply:
- (1) Any firearm of whatsoever nature, knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of PURCHASER is determined to be a potential weapon.
  - (2) Alcoholic beverages of any nature.
  - (3) Illegal or PURCHASER-prohibited non-prescription drugs of any nature without exception.
- 30.2 TANK CONTRACTOR shall abide by and enforce the requirements of this clause to include the immediate removal from the Work under this Tank Contract of any employee who has violated the requirements of this clause or who PURCHASER, in its sole judgment, determines has violated the requirements of this clause.

- 30.3 TANK CONTRACTOR shall be subject to the Phase 1 and Phase 2 Project's drug and alcohol policy, attached as Exhibit "B," Appendix B-4. Pre-employment drug and alcohol screening shall be required of all TANK CONTRACTOR's employees. All TANK CONTRACTOR's employees shall be subject to random drug and alcohol testing.

#### **SC-31 ARBITRATION**

Any arbitration held under this Tank Contract shall be held in Houston, Texas, unless otherwise agreed by the Parties, shall be administered by the Dallas, Texas office of the American Arbitration Association ("AAA") and shall, except as otherwise modified by this Article SC-31, be governed by the AAA's Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Construction Disputes) (the "AAA Rules"). The number of arbitrators required for the arbitration hearing shall be determined in accordance with the AAA Rules. The arbitrator(s) shall determine the rights and obligations of the Parties according to the substantive law of the state of Texas, excluding its conflict of law principles, as would a court for the state of Texas; provided, however, the law applicable to the validity of the arbitration clause, the conduct of the arbitration, including resort to a court for provisional remedies, the enforcement of any award and any other question of arbitration law or procedure shall be the Federal Arbitration Act, 9 U.S.C.A. § 1, *et seq.* Issues concerning the arbitrability of a matter in dispute shall be decided by the arbitrator(s). The Parties shall be entitled to engage in reasonable discovery, including the right to production of relevant and material documents by the opposing Party and the right to take depositions reasonably limited in number, time and place; provided that in no event shall any Party be entitled to refuse to produce relevant and non-privileged documents or copies thereof requested by the other Party within the time limit set and to the extent required by order of the arbitrator(s). All disputes regarding discovery shall be promptly resolved by the arbitrator(s). This agreement to arbitrate is binding upon the Parties, TANK CONTRACTOR's surety (if any) and the successors and permitted assigns of any of them. At PURCHASER's sole option, PURCHASER may join any Guarantor as an additional party to any arbitration conducted under this Article SC-31. The Parties may join any other Person as an additional party to any arbitration conducted under this Article SC-31, *provided that* the party to be joined is or may be liable to either Party in connection with all or any part of any dispute between the Parties. The arbitration award shall be final and binding, in writing, signed by all arbitrators, and shall state the reasons upon which the award thereof is based. The Parties agree that judgment on the arbitration award may be entered by any court having jurisdiction thereof.

#### **SC-32 NOT USED**

#### **SC-33 NOT USED**

#### **SC-34 HAZARDOUS MATERIALS**

- 34.1 TANK CONTRACTOR shall not, nor shall it permit or allow any Subcontractor or Subsubcontractor to, bring any Hazardous Materials on the Phase 2 Tank Site and shall bear all responsibility and liability for such materials; *provided, however,* that TANK CONTRACTOR may bring onto the Phase 2 Tank Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with

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Applicable Law, applicable codes and standards, and the SAFETY AND HEALTH (S&H) STANDARDS set forth in Exhibit "B" Appendix B-2, and TANK CONTRACTOR shall remain responsible and liable for all such Hazardous Materials.

- 34.2 If TANK CONTRACTOR or any Subcontractor or Subsubcontractor encounter pre-existing Hazardous Materials at the Phase 2 Tank Site, and TANK CONTRACTOR or any Subcontractor or Subsubcontractor knows or suspects that such material is Hazardous Material, TANK CONTRACTOR and its Subcontractors and Subsubcontractors shall promptly stop Work in the affected area and notify PURCHASER.
- 34.3 PURCHASER shall remove, transport and, as appropriate, dispose of any Hazardous Materials discovered or released at the Phase 2 Tank Site, including any Hazardous Materials brought on the Phase 2 Tank Site or generated by Third Parties, but excluding any Hazardous Materials brought on to the Phase 2 Tank Site or generated by TANK CONTRACTOR or any of its Subcontractors or Subsubcontractors.

#### **SC-35 HAZARDOUS SUBSTANCE AWARENESS**

- 35.1 The nature of the Work to be performed under this Tank Contract involves inherent risks. TANK CONTRACTOR agrees that it will inform its officers, employees, agents, Subcontractors and Subsubcontractors, and any other parties which may come into contact with any Hazardous Materials as a result of TANK CONTRACTOR's activities hereunder of the nature of such materials and any health or environmental risks associated with such materials.
- 35.2 TANK CONTRACTOR warrants that TANK CONTRACTOR's personnel and personnel of its Subcontractors and Subsubcontractors, assigned to or regularly entering the Phase 2 Site, have or will receive training as specified in OSHA 29 CFR 1910.120 (e) in relation to this Tank Contract prior to their assignment to field duty. Supervisory personnel of any tier will also receive, as a minimum, eight hours additional specialized training in the management of Hazardous Material operations. Such training shall be at TANK CONTRACTOR's expense. TANK CONTRACTOR personnel assigned to the Phase 2 Tank Site may also be required to attend specialized training classes specific to the Phase 2 Tank Site as presented by PURCHASER.

#### **SC-36 HAZARDOUS SUBSTANCE REGULATIONS**

TANK CONTRACTOR shall ensure that all Hazardous Materials with which it deals receive safe and proper handling. TANK CONTRACTOR confirms that it is aware of and will comply with the requirements of the Comprehensive Environmental Response, Compensation, Liability Act, 42 U.S.C. 9601-9675 (CERCLA) as amended; the Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992 (RCRA) as amended; the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601-2671; the Clean Water Act (CWA), 33 U.S.C. 1251-1387; Title 40 of the Code of Federal Regulations; the Department of Transportation (DOT) regulations applicable to Hazardous Materials, and any other Applicable Law related to working with or near Hazardous Materials.

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**SC-37 NOT USED****SC-38 LABORATORY ANALYSES**

- 38.1 When chemical, radiological or physical analyses of Hazardous Materials, which are the responsibility of TANK CONTRACTOR, are required for their disposal, treatment, or recycling, and such analyses are not listed below as PURCHASER provided, TANK CONTRACTOR shall cause such analyses to be performed by an appropriately qualified laboratory. TANK CONTRACTOR shall identify the analyses to be performed and submit the name, qualifications, and procedures of the proposed laboratory(ies) to PURCHASER for review prior to performing any analyses. Such analyses shall be at TANK CONTRACTOR's expense. The following laboratory analyses will be provided by PURCHASER:

NONE.

**SC-39 ON-SITE HANDLING AND DISPOSAL OF HAZARDOUS MATERIAL**

If the Work under this Tank Contract includes any intrusive site or structural drilling, boring, coring or sampling, debris may be produced as a result of these efforts. This debris could include solids or liquids drawn from site wells for sampling purposes. All such debris shall be treated by TANK CONTRACTOR as if it were Hazardous Materials regulated under the federal Resource and Conservation Recovery Act of 1976, 42 U.S.C. 6901-6992 (RCRA) as amended, or any more stringent applicable regulations, unless and until TANK CONTRACTOR has been able to confirm, to the satisfaction of PURCHASER and the appropriate regulatory agencies that the wastes are not regulated as Hazardous Materials.

**SC-40 OFF-SITE TRANSPORTATION AND DISPOSAL OF HAZARDOUS MATERIALS**

TANK CONTRACTOR shall have no authority or responsibility for the off-site transportation, storage, treatment or disposal of contaminated or potentially contaminated waste materials of any kind, which are directly or indirectly generated at the Phase 2 Tank Site. However, TANK CONTRACTOR shall handle all materials at the Phase 2 Tank Site with due care, in accordance with Work plans or Phase 2 Tank Site plans and the requirements of this Tank Contract.

**SC-41 SEC FILINGS**

- 41.1 TANK CONTRACTOR acknowledges and agrees that PURCHASER or its Affiliates shall be required, from time to time, to make disclosures and press releases and applicable filings with the SEC (including a copy of this Tank Contract) in accordance with applicable securities laws, that PURCHASER believes in good faith are required by Applicable Law or the rules of any stock exchange. If any such disclosure, press release or filing includes any reference to TANK CONTRACTOR, then PURCHASER shall provide as much notice as is practicable to TANK CONTRACTOR to provide it with an opportunity to comment; *provided, however*, the final determination shall remain with PURCHASER.

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**SC-42 TANK CONTRACTOR REGISTRATION**

- 42.1 Non-resident TANK CONTRACTOR and its Subcontractors and Subsubcontractors must register for sales and use Tax purposes with the Louisiana Department of Revenue and the Cameron Parish Police Jury. Prior to commencing Work non-resident TANK CONTRACTOR and its Subcontractor and Subsubcontractors shall post a bond in an amount required under Applicable Law. Upon satisfactory completion of the Tax registration and surety bond requirements, TANK CONTRACTOR shall obtain from the Secretary a certificate of compliance and shall provide a copy to PURCHASER.

**SC-43 LOUISIANA SALES AND USE TAXES**

- 43.1 PURCHASER shall participate in the Louisiana Enterprise Zone Program, which shall allow PURCHASER to receive a rebate directly from the State of Louisiana Department of Revenue of the rebatable portion of Louisiana state, parish and local-option sales and use tax ("Louisiana Sales and Use Tax") incurred and paid by TANK CONTRACTOR and its Subcontractors or Subsubcontractors in connection with performance of the Work. TANK CONTRACTOR shall provide to PURCHASER, for itself and its Subcontractors and Subsubcontractors, all documentation as may be reasonably requested by PURCHASER and available to TANK CONTRACTOR and its Subcontractors and Subsubcontractors in order to allow PURCHASER to secure such rebate. Such documentation shall include invoice documentation supporting all Louisiana Sales and Use Taxes paid by TANK CONTRACTOR and its Subcontractors and Subsubcontractors for the purchase of permanently installed material and equipment delivered within the state of Louisiana. Such documentation shall be provided to PURCHASER with each Invoice and shall clearly identify (i) the item of material or equipment purchased, (ii) the amount of Louisiana Sales and Use Tax paid; and (iii) all information (including the Phase 2 Project name and the Phase 2 Project address, which shall be documented on TANK CONTRACTOR's Invoice) to properly establish that the material and equipment was used in connection with or incorporated into the Phase 2 Facility. If the equipment was taken from TANK CONTRACTOR's or a Subcontractor's or Subsubcontractor's inventory, subject to SC-43.4, TANK CONTRACTOR shall provide PURCHASER with an invoice, journal vouchers or other similar documentation as may be required to evidence that the applicable Louisiana Sales and Use Tax was paid by TANK CONTRACTOR or its Subcontractor or Subsubcontractor on such inventory. PURCHASER's tax consultant shall assist PURCHASER to secure all available rebates of Louisiana Sales and Use Taxes and is authorized to request and receive information directly from TANK CONTRACTOR and Subcontractors and Subsubcontractors on behalf of PURCHASER. No information shall be provided to PURCHASER's tax consultant until such tax consultant has signed a confidentiality agreement with TANK CONTRACTOR and any applicable Subcontractor or Subsubcontractor with terms customary in the audit industry for audits of this kind.
- 43.2 PURCHASER shall provide TANK CONTRACTOR with any state and local manufacturing, pollution control or other applicable sales and use Tax exemption certificates that PURCHASER received and which are valid under Applicable Law, including the governing law specified in SC-21. TANK CONTRACTOR will reasonably cooperate with PURCHASER to minimize any and all Taxes relating to the Project.



- 43.3 If TANK CONTRACTOR or any of its Subcontractors or Subsubcontractors incurs any sales and use Taxes on any items of material and equipment for which PURCHASER has previously provided TANK CONTRACTOR with a valid applicable sales and use Tax exemption certificate, TANK CONTRACTOR shall be responsible for the payment of such sales and use Taxes without reimbursement by PURCHASER.
- 43.4 PURCHASER shall have the right to have its third party auditors audit the Books and Records of TANK CONTRACTOR and its Subcontractors and Subsubcontractors to confirm that all Louisiana Sales and Use Taxes paid by TANK CONTRACTOR and its Subcontractors and Subsubcontractors in connection with the Work are properly owed under Applicable Law; provided, however, if the determination of the proper amount of such Louisiana Sales and Use Tax assessed on any one or more items of material and or equipment is dependent upon knowing the actual cost incurred by TANK CONTRACTOR or its Subcontractors or Subsubcontractors for such item of equipment or material and the compensation of such item of equipment or material is included in the Tank Contract Price or in any lump sum Change Order, that portion of the audit devoted to reviewing the actual cost incurred by TANK CONTRACTOR or its Subcontractors or Subsubcontractors for such item of material and/or equipment shall be performed by PURCHASER's tax consultant, which shall be retained by PURCHASER at PURCHASER's sole expense. The Parties agree that (unless the amount of Louisiana Sales and Use Tax properly payable for an item of material and equipment is subject to litigation or arbitration) such tax consultant shall not disclose to PURCHASER the actual cost incurred by TANK CONTRACTOR or its Subcontractors or Subsubcontractors for any item of material and equipment included in the Tank Contract Price, but the Parties agree that such tax consultant may report to PURCHASER the proper Louisiana Sales and Use Taxes properly payable under Applicable Law. No access to Books and Records shall be granted to PURCHASER's third party auditors until such auditors have signed a confidentiality agreement with TANK CONTRACTOR or any applicable Subcontractor or Subsubcontractor with terms customary in the audit industry for audits of this kind.
- 43.5 Included in the Tank Contract Price is an allowance of Five Million Three Hundred Forty-Nine Thousand Four Hundred Seventy-Three US Dollars (US\$5,349,473) for Louisiana Sales and Use Taxes arising in connection with the Work ("Louisiana Sales and Use Tax Allowance"). If the actual amount of Louisiana Sales and Use Taxes paid by TANK CONTRACTOR and its Subcontractors and Subsubcontractors in connection with the Work is less than the Louisiana Sales and Use Tax Allowance, PURCHASER shall be entitled to a Change Order reducing the Tank Contract Price by such difference. If the actual amount of Louisiana Sales and Use Taxes paid by TANK CONTRACTOR and its Subcontractors and Subsubcontractors in connection with the Work is greater than the Louisiana Sales and Use Tax Allowance, TANK CONTRACTOR shall be entitled to a Change Order increasing the Tank Contract Price by such difference; provided that TANK CONTRACTOR shall reasonably cooperate with PURCHASER to minimize any and all Louisiana Sales and Use Taxes arising in connection with the Work, and provided further that in the event that PURCHASER discovers that it has paid TANK

#### SC-44 LIMITATION OF LIABILITY

Notwithstanding any other provisions of this Tank Contract to the contrary, TANK CONTRACTOR shall not be liable to PURCHASER under this Tank Contract or under any cause of action related to the subject matter of this Tank Contract, whether in contract, warranty, tort (including negligence), strict liability, products liability, professional liability, contribution or any other cause of action, in excess of a cumulative aggregate amount of thirty percent (30%) of the Tank Contract Price (as may be adjusted by Change Order), and PURCHASER shall release TANK CONTRACTOR from any liability in excess thereof; *provided that*, notwithstanding the foregoing, the limitation of liability set forth in this Special Condition shall not (i) apply to damages, losses, costs and expenses resulting from TANK CONTRACTOR's criminal acts, fraud or gross negligence by Key Personnel or their superiors; (ii) apply to TANK CONTRACTOR's obligations under General Condition 34.3, 39.1, 39.2, 39.4, 39.5 or 40.1; or (iii) include the proceeds paid under any insurance policy that TANK CONTRACTOR or its Subcontractors or Subsubcontractors are required to obtain pursuant to this Tank Contract, or Subcontract or Subsubcontract, as the case may be. In no event shall the limitation of liability set forth in this Special Condition be in any way deemed to limit TANK CONTRACTOR's obligation to perform all Work required to achieve Ready for Cool Down (RFCO) for all of the Phase 2 Tanks.

#### SC-45 WAGE ADJUSTMENTS

- 45.1 PURCHASER and TANK CONTRACTOR have agreed that PURCHASER will assume certain responsibility for increases in compensation for direct labor and hourly labor, including but not limited to wages (inclusive of payroll burdens and benefits), per diems, and other living allowances ("Field Labor Rates and Compensation") required to attract and maintain the number of skilled and productive direct and indirect hourly labor workers at the Phase 2 Project Site ("Field Labor") necessary for Tank Contractor to perform the Work in accordance with the Tank Contract Schedule. PURCHASER's obligation hereunder shall be irrespective of the cause of such increase, excluding cause within the control of or due to the fault of TANK CONTRACTOR. The Parties agree that the intent of this methodology will be to: (1) proactively address and adjust the Field Labor Rates and Compensation levels required to attract and maintain the number of skilled and productive Field Labor necessary for Tank Contractor to perform the Work; and (2) to provide provisions for timely payment terms with respect to increased compensation levels. The Parties acknowledge that the demand for skilled Field Labor may be greater than the local supply and that competitive wages and total compensation may need to be provided to attract and maintain skilled and productive Field Labor.
- 45.2 The Tank Contract Price includes baseline Field Labor Rates and Compensation ("Baseline Field Labor Rates and Compensation") for each category of Field Labor. Contemporaneous with the execution of this Tank Contract, TANK CONTRACTOR shall provide to PURCHASER a listing of such Baseline Field Labor Rates and Compensation.

- 45.3 The Tank Contract Price includes an allowance of Five Million US Dollars (US\$5,000,000) ("Labor Compensation Allowance") for the payment of increased Field Labor and Compensation hereunder.
- 45.4 If TANK CONTRACTOR believes that the Field Labor Rates and Compensation need to be increased over the Baseline Field Labor Rates and Compensation to attract and maintain Field Labor, the following shall apply:
- (1) TANK CONTRACTOR may submit an invoice against the Labor Compensation Allowance for any Field Labor Rates in excess of the Baseline Field Labor Rates and Compensation, as permitted in SC-45.4(2) or 45.4(3). TANK CONTRACTOR is not entitled to, and may not invoice the Labor Compensation Allowance for, any markup for overhead, profit, fee, or otherwise on any such increased labor rates.
  - (2) If TANK CONTRACTOR believes it needs to increase the Field Labor Rates and Compensation to attract and maintain hourly craft labor, TANK CONTRACTOR shall submit in writing to PURCHASER a notice and substantiation of the need for such increase, with a five (5) day notice prior to implementation, for any portion of the first US\$2,500,000 of the Labor Compensation Allowance to be allocated at the discretion of TANK CONTRACTOR.
  - (3) TANK CONTRACTOR may submit to PURCHASER a request for an increase in Field Labor Rates and Compensation above the US\$2,500,000 provided for in clause (2) above, up to the full amount of the Labor Compensation Allowance, including documents reasonably necessary to substantiate the need for an increase in the compensation required to attract and maintain qualified workers, including the Local Labor Survey as defined below.
    - (a) TANK CONTRACTOR shall provide any other information reasonably requested by PURCHASER with respect to TANK CONTRACTOR's request for an increase in Field Labor Rates and Compensation.
    - (b) PURCHASER and TANK CONTRACTOR shall meet within five (5) Business Days after receipt of TANK CONTRACTOR's request to evaluate TANK CONTRACTOR's request for an increase in Field Labor Rates and Compensation. If PURCHASER agrees, such agreement not to be unreasonably withheld, that an increase in Field Labor Rates and Compensation is justified and has been substantiated by TANK CONTRACTOR, then PURCHASER and TANK CONTRACTOR shall agree to new maximum Field Labor Rates and Compensation for any or all categories of Field Labor. If PURCHASER does not agree with TANK CONTRACTOR's request for an increase in Field Labor Rates and Compensation, PURCHASER shall give a written response to TANK CONTRACTOR within five (5) Business Days of receipt of such request, stating the reasons for PURCHASER's disagreement.

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- (c) If TANK CONTRACTOR pays Field Labor Rates and Compensation below the Baseline Field Labor Rates and Compensation, TANK CONTRACTOR shall credit the amounts below such Baseline Field Labor Rates and Compensation to the Labor Compensation Allowance.
- (d) Failure by PURCHASER and TANK CONTRACTOR to agree on any adjustment shall be a dispute within the meaning of the General Condition entitled DISPUTES.
- 45.5 TANK CONTRACTOR shall provide documentation as reasonably requested by PURCHASER regarding amounts invoiced or paid for hourly craft labor, including workhours, wages rates, benefits, and other compensation paid.
- 45.6 Compensation packages for TANK CONTRACTOR Field Labor will not significantly differ from that offered by other large contractors providing construction labor for the Phase 1 Project or Phase 2 Project. TANK CONTRACTOR shall conduct a local and regional wage and total compensation survey ("Local Labor Survey") to provide evidence of the need for an increase in Field Labor and Compensation under this SC-45. Such Local Labor Survey shall include the wage rates paid by other recognized owners, major contractors and their subcontractors performing or anticipated to be performing major capital projects (excluding turnarounds) during the term of this Tank Contract within a fifty (50) mile radius of the Phase 2 Project.
- 45.7 Any increase in Field Labor Rates and Compensation shall be applied to Work performed after the implementation of such increase. If PURCHASER denies an increase under SC-45.4(3) and such increase was owed, then the increase shall be retroactive to the date in which the request by TANK CONTRACTOR was made. The increases in Field Labor Rates and Compensation shall be applied to the budgeted hours, as reflected in the Baseline Field Labor Rates and Compensation, remaining for the Phase 2 Project (as may be adjusted by Change Order), not actual hours.
- 45.8 Any portion of the Labor Compensation Allowance not used or invoiced on the Phase 2 Project shall revert to PURCHASER.
- 45.9 All adjustments seeking an increase to the Labor Compensation Allowance shall be by Change Order. Other than PURCHASER's agreement to increase Field Labor Rates and Compensation as set forth above, TANK CONTRACTOR retains all responsibility and obligation for the performance of the Work, including the timely performance of the Work by Field Labor.

## Sabine Pass Expansion – Tank Contract

## APPENDIX B-1

## GENERAL REQUIREMENTS FOR TANK CONTRACTOR QUALITY SYSTEMS

Unless otherwise set forth herein, capitalized terms have the same meaning as set forth in Exhibit B to the Tank Contract.

1.0 SCOPE

- 1.1 This document provides quality assurance requirements for TANK CONTRACTOR's materials and services as specified in the Tank Contract.
- 1.2 This Appendix B-1 applies to those items and related services which are required to be controlled to assure quality.
- 1.3 This Appendix does not delete or revise any requirements of the Tank Contract. If any inconsistency is considered to exist between the requirements of this document and the Tank Contract, the higher or more stringent requirement shall control.

2.0 GENERAL

- 2.1 TANK CONTRACTOR is responsible for the achievement of the required standard of Work in accordance with the requirements of the Tank Contract. PURCHASER will monitor and audit TANK CONTRACTOR's actions and activities, as necessary, to verify that proper controls are implemented and to assure compliance with the specified requirements.
- 2.2 The monitoring will generally take the form of regular assessments and surveillance of the methods and documents used to control, progress, record and verify the Work performed. Any areas considered deficient shall be remedied to the satisfaction of PURCHASER.
- 2.3 A Quality Plan is considered a base document for the assurance of quality and describes the means by which TANK CONTRACTOR will ensure that the standard of the Work complies with the Tank Contract requirements. TANK CONTRACTOR shall produce a quality plan ("Quality Plan"), which covers all activities associated with the Tank Contract, and shall describe the activities in a logical order and include references to applicable procedures, interfaces, (including witness, hold and inspection points), and documents recording attainment of quality.

3.0 QUALITY SYSTEM REQUIREMENTS

- 3.1 TANK CONTRACTOR shall establish a quality system ("Quality System"), which shall be in place and maintained by TANK CONTRACTOR throughout the duration of the Tank Contract.
- 3.2 The Quality System shall cover all activities and extend to all areas of TANK CONTRACTOR's organization applicable to the work being undertaken and include design, procurement, fabrication, erection, installation, testing and shipping, as appropriate, dependent upon the nature of the product and type of service being provided.
- 3.3 The Quality System shall be based on existing proven working routine and practices and be described in an approved document reflecting a planned and systematic approach to achieving and maintaining quality. The system shall ensure that all actions and activities that have impact upon quality are systematically planned.
- 3.4 Unless noted otherwise in the Tank Contract, the Quality System shall include controls for the following areas:

Dated [\_\_\_\_\_]

3.4.1 MANAGEMENT RESPONSIBILITY

TANK CONTRACTOR management shall define its policy and objectives for, and commitment to, quality. The responsibility, authority, and the interrelation of all personnel engaged in final inspection and/or tests shall be defined.

In-house verification requirements, provisions for adequate resources, and the assignment of trained and/or experienced personnel for verifying that product conforms to specified requirements, shall be identified.

Quality management representatives (including "Quality Assurance Managers" and "Quality Control Managers"), supported by appropriate quality organization staffing, shall be appointed who, irrespective of other responsibilities, shall have defined authority and responsibility for ensuring that the requirements of the quality system are implemented and maintained. These personnel shall be assigned on a full time basis at the location where work activity warrants, as determined by PURCHASER's QA. The proposed candidate for this position requires documented approval from PURCHASER's QA. Appropriate personnel shall be assigned prior to starting work affecting permanent plant items. Deviations from this requirement will be subject to PURCHASER QA's approval.

3.4.2 QUALITY SYSTEM

An effective Quality System encompassing all activities under the scope of work (Engineering, procurement, construction, etc.) shall be established and maintained for the review, checking, inspection and tests of products on completion. This shall include documented procedures for final inspection and test operations, including workmanship standards and quality records. Applicable procedures shall be referenced in the TANK CONTRACTOR's Quality Plan and shall be submitted to PURCHASER for review and approval.

TANK CONTRACTOR shall prepare an inspection and test plan ("ITP") for each equipment item. TANK CONTRACTOR shall obtain the approval of PURCHASER for the ITP prior to the start of fabrication.

The ITP shall document all the major permanent plant related activities in chronological order from initial drawings through manufacturing/construction, process controls, final testing, and documentation/certification. These activities shall include, but not be limited to:

- a. Testing and inspection activities to be performed by the TANK CONTRACTOR in accordance with the Contract requirements. (i.e., NDE, pressure testing, PMI and other activities)
- b. Testing and inspection activities to be performed by the TANK CONTRACTOR in accordance with the TANK CONTRACTOR's internal QA/QC procedures.
- c. Hold, witness, and notification points for source inspection activities to be performed by the TANK CONTRACTOR.
- d. All inspection activities associated with any fabrication by any sub-suppliers.

The TANK CONTRACTOR shall develop the format of the ITP to include, as a minimum, the following items for each quality verification activity:

- a. Relevant procedures and specifications
- b. Acceptance criteria
- c. Records/documentation produced
- d. Approval signatures by TANK CONTRACTOR and PURCHASER

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3.4.3 DESIGN CONTROL

Documented procedures and measures shall be established and maintained to control and verify the design of the product in order to ensure that the specified requirements are met. These measures shall include, as appropriate, design reviews, design verification, and control of design changes.

3.4.4 DOCUMENT CONTROL

Documented procedures and measures shall be established and maintained to control approved documents. Documented procedures for final inspection and testing shall be reviewed and approved for adequacy by authorized personnel prior to issue. The document control system shall ensure that only valid documents are used for construction or fabrication activities and are available for final inspection and testing.

3.4.5 PURCHASING

Documented procedures and controls shall be in place to ensure that purchased products conform to specified requirements. Subcontractors/suppliers shall be selected on the basis of their ability to meet procurement document requirements. Measures shall be established to verify that purchased products conform to the procurement document requirements.

3.4.6 PRODUCT IDENTIFICATION

TANK CONTRACTOR shall maintain a system of identification to ensure traceability of materials, welding and NDE for all pressure containing components and/or other equipment or components as required by applicable industry standards or PURCHASER specifications. Individual product or batches shall be marked for identification, where specified. The identification shall be recorded on related records.

3.4.7 INSPECTION AND TESTING

All inspection and testing shall be carried out in accordance with documented procedures and the appropriate records shall be maintained to complete the evidence of conformance of product to the specified requirements. The final inspection shall include a verification of acceptable results of other necessary inspections or tests performed previously during receiving inspection or "in-process" verification of requirements.

3.4.8 INSPECTION, MEASURING, AND TEST EQUIPMENT

Documented procedures shall be established for control of inspection, measuring, and test tools and equipment.

Inspection, measuring, and test equipment shall be calibrated and maintained to demonstrate the conformance of product to the specified requirements. All inspection, measuring, and test equipment utilized for final inspection and testing shall be calibrated and adjusted against certified equipment having known valid relationship to recognized standards.

Calibration records shall be maintained for inspection, measuring, and test equipment.

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3.4.9 INSPECTION AND TEST STATUS

The inspection and test status of products shall be identified by using markings, authorized stamps, tags, labels, inspection records, test software, physical location, or other suitable means, which indicate the conformance or nonconformance of products with regard to inspection and tests performed. Records shall identify the inspection authority responsible for the release of conforming products.

3.4.10 CONTROL OF NONCONFORMING PRODUCT

Documented procedures shall be established for control of nonconforming items. Control of products that do not conform to the specified requirements shall be maintained. All nonconforming products shall be clearly identified and segregated, when practical, to prevent unauthorized use, delivery, or mixing with conforming product. Repair or reworked products shall be re-inspected in accordance with documented procedures. TANK CONTRACTOR shall submit a repair procedure to PURCHASER that addresses all major repair or rework activities. PURCHASER shall approve this procedure prior to starting any repair or rework activity.

3.4.11 HANDLING, STORAGE, PACKAGING, AND DELIVERY

Arrangements shall be made for the protection of the quality of products and its identification after final inspection and test. Where contractually specified, this protection shall be extended to include delivery to destination.

3.4.12 QUALITY RECORDS

Appropriate inspection and test records shall be maintained to substantiate conformance with specified requirements. Quality records shall be legible and identifiable to the product involved. Quality records that substantiate conformance with the specified requirements shall be retained for an agreed period and made available on request.

3.4.13 TRAINING

Training requirements shall be identified in a training plan or a procedure and included within the quality system to ensure that all necessary training is made available and given to TANK CONTRACTOR employees. The training requirements shall encompass organizational and procedural information as well as technical and safety topics. The system shall ensure that required procedures are available and to confirm that personnel are aware of the requirements and regulations pertinent to their activities. Personnel performing final inspection and tests shall have appropriate experience and/or training.

3.4.14 AUDITS

Documented procedures for performance of audits shall be established.

Audits of internal and external permanent plant products or activities shall be performed to ensure compliance with contract requirements.

Qualified personnel shall perform audits.

An Audit Schedule shall be developed by TANK CONTRACTOR and submitted to PURCHASER for review and approval prior to performance of first scheduled audit.



3.4.15 SAFETY AND ENVIRONMENTAL

Quality, safety, and protection of the environment are considered to be integral aspects of a quality system. The Quality System shall ensure that due consideration is given to safety and the environment in which the product or service is supplied.

The procedures adopted shall ensure that work methods are conducted in a safe and secure manner and adequate reviews and safeguards are adopted.

3.5 The technical specification(s) of PURCHASER will identify any additional applicable governing quality standards.

4.0

ADDITIONAL REQUIREMENTS

4.1 Within thirty (30) days after award, TANK CONTRACTOR shall submit, for PURCHASER's approval, a copy of its Quality Plan (including applicable procedures), which defines the Quality System that has been agreed to be followed.

4.1 PURCHASER may approve, or approve with comments, TANK CONTRACTOR Quality Plan. Comments from PURCHASER shall be incorporated in TANK CONTRACTOR's Quality Plan (i.e., by revision, addenda, amendments, or supplements) and resubmitted for final acceptance to PURCHASER within thirty (30) days of receipt of comments from PURCHASER.

4.2 Subsequent revisions to the PURCHASER accepted Quality Plan and/or associated procedures, which delete any of the existing requirements, or render them less restrictive, shall be submitted to PURCHASER for review and approval prior to implementation.

4.3 Acceptance by PURCHASER does not relieve TANK CONTRACTOR of the obligation to comply with the requirements of the Tank Contract, including this document. If the Quality System, implemented by TANK CONTRACTOR, is subsequently found to be ineffective or inadequate in providing for acceptable control, TANK CONTRACTOR shall make necessary revisions.

4.4 TANK CONTRACTOR shall assure that Subcontractors and Subsubcontractors comply with the applicable requirements of the Tank Contract.

4.5 TANK CONTRACTOR shall assess the effectiveness of the control of quality by Subcontractors and Subsubcontractors at intervals consistent with the importance and complexity of the product or service. Results of these assessments shall be provided to PURCHASER.

5.0

DEVIATIONS/REQUESTS FOR INFORMATION

5.1 A deviation is any departure from any technical specification requirement contained in the Tank Contract documents which TANK CONTRACTOR intends to incorporate in the completed item or service provided. Disposition of deviations is classified and defined as follows:

- a. Accept as is: A disposition which may be imposed for a nonconformance when it can be established that the discrepancy will result in no adverse conditions and that the item under consideration will continue to meet all engineering functional requirements, including performance, maintainability, fit, and safety.
- b. Repair: The process of restoring a nonconforming characteristic to a condition such that the capability of an item to function reliably and safely is unimpaired, even though that item still may not conform to the original requirements.
- c. Accept Substitution: Change the subject requirement in PURCHASER's procurement document so that the item or service to be furnished is no longer deviant but fully conforming.

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- 5.2 TANK CONTRACTOR shall submit all deviations to PURCHASER within five (5) working days after detection. Deviations are considered unacceptable until approved in writing by PURCHASER.
  - 5.3 The deviation request must be supported by technically valid information that is sufficient for evaluation by PURCHASER. When necessary, TANK CONTRACTOR shall attach supporting technical documents to the deviation request.
  - 5.4 A copy of PURCHASER's approved deviation request and attachments shall be included by TANK CONTRACTOR in the quality verification data package for the item(s) to which it applies.
  - 5.5 The acceptance or rejection of TANK CONTRACTOR proposed disposition is the prerogative of PURCHASER and shall require the signed authorization of PURCHASER. Acceptance of the deviation request by PURCHASER does not relieve TANK CONTRACTOR from responsibility for the accuracy, adequacy, or suitability of the item or service being provided as defined in the Tank Contract.

6.0 QUALITY DOCUMENTS

- 6.1 Quality Verification Documents shall be submitted to PURCHASER in accordance with the requirements of the Tank Contract documents and Exhibit B, Appendix B-3A.
- 6.2 All quality related documents, procedures, and qualifications shall be available for examination by PURCHASER.

7.0 TANK CONTRACTOR QUALITY SURVEILLANCE

- 7.1 All procuring, processing, assembling, testing, examination, and inspection operations performed by TANK CONTRACTOR and its Subcontractor and Subsubcontractors are subject to surveillance by PURCHASER. This surveillance shall in no way relieve TANK CONTRACTOR of any contractual responsibilities nor shall it limit, in any way any other rights of PURCHASER under the Tank Contract. The term "surveillance", as used herein, includes inspection, survey, and audit activities.
- 7.2 Inspectors for PURCHASER shall be given access to TANK CONTRACTOR and its Subcontractors and Subsubcontractors facilities and records to inspect and report on the work pertaining to this Tank Contract.

## EXHIBIT "B"

## APPENDIX B-1A

## DIRECTIONS FOR CERTIFICATION DOSSIERS

## 1.0 PURPOSE

To provide guidelines to TANK CONTRACTOR on preparation of Certification Dossier(s) for the Sabine Pass LNG Terminal Project (Phase 2).

## 2.0 SCOPE

To provide a certification system verifying the necessary inspections, checks and testing requirements have been performed, accepted and documented, to support handover of the Work.

It is PURCHASER'S policy that Work is not complete until all paperwork is complete. Therefore it should be understood that this is a contractual procedure and no deviations from it shall be allowed without the prior consent of PURCHASER. PURCHASER requires that the Certification Dossier be professional in every respect. This includes staffing, keeping records current, progress reporting, storage conditions and handover details as detailed elsewhere in this appendix.

## 3.0 DEFINITIONS

- 3.1 **Certification:** Documents summarizing the predefined inspections, checks and testing that have been performed and signed off as acceptable, including supplier drawings, as built, calculations, traceability, third party data reports, etc.
- 3.2 **Dossier:** A suite of records containing the compiled Certification records.
- 3.3 **As-built:** Accurate and approved records of all deviations between Work as designed and Work as installed.
- 3.4 **Certified Material Test Reports (CMTR/MTR):** document issued and authenticated by the material manufacturer defining the chemical composition and mechanical properties of a material.
- 3.5 **Certificate of Conformance:** document issued by a relevant organization certifying that the product(s) supplied conform in every respect to the purchasing specification.

## 4.0 REFERENCE

- 4.1 Project Specifications applicable to TANK CONTRACTOR'S scope of Work.

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## 5.0 RESPONSIBILITY

TANK CONTRACTOR shall appoint a Certification representative ("Certification Representative"). This position requires a person with previous experience in Certification formulation and review activities, and such Representative shall be agreed with PURCHASER. TANK CONTRACTOR shall be responsible for completing, checking and obtaining all necessary approvals.

## 6.0 REQUIREMENTS FOR CERTIFICATION DOSSIERS

- 6.1 A Certification Dossier must be submitted for all permanent Phase 2 Project related Work. The dossier shall be completed in accordance with guidelines identified in this Appendix.
- 6.2 Within the first month after Tank Contract award TANK CONTRACTOR shall submit to PURCHASER for review a "dummy dossier" Table of Contents/Index (TOC). **The "dummy dossier Table of Contents/Index (TOC)" will require a code one (1) or code two (2) approval prior to start of construction activities.**
- 6.3 TANK CONTRACTOR shall provide an estimate as to the number of dossiers expected to be included in the final handover. TANK CONTRACTOR shall keep this information "live" and report as requested by PURCHASER further changes to the expected number of volumes. All documentation shall be filed in binders as described elsewhere in this procedure.
- 6.4 TANK CONTRACTOR shall implement a computer-based system capable of giving an accurate status on completed test activities at all times and shall, when required, produce accurate punchlists.
- 6.5 The original Certification dossier shall be compiled on a progressive basis, as construction activities are completed and as such allowing PURCHASER, by periodic surveillance, to ensure that all requirements listed are being met. TANK CONTRACTOR shall be required to provide status of the dossier packages in periodic status meetings with PURCHASER.
- 6.6 TANK CONTRACTOR shall attend regular Certification meetings as determined by PURCHASER. Once TANK CONTRACTOR is mobilized on site, TANK CONTRACTOR attendance at a Certification kick-off meeting shall be required. This could be held at the TANK CONTRACTOR's facility on site and will involve relevant personnel.
- 6.7 English shall be the language for all documents and all Certification documents shall be 100% legible. Legibility and clarity shall be maintained during reproduction processes to ensure satisfactory microfilm and scanning quality.

**Any document with incomplete, illegible, non-reproducible or cut off data will not be accepted.**

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- 6.8 Records contained in the Master Certification Dossier shall be originals. Records including computer updates shall be kept current with fabrication and testing activities. If for some reason a document is not an original, the document shall be stamped original with the comment “**verified unmodified copy of original document**” written on the document and signed by TANK CONTRACTOR’S Certification Representative.
- 6.9 Where information is not applicable, N/A in the space shall denote this. All N/A entries shall be initialed and dated by the Certification Representative or designee.
- 6.10 TANK CONTRACTOR shall provide a safe and secure environment (e.g., locked offices, locked fireproof and weatherproof file cabinets), with adequate storage facilities for the Certification records. Certification records shall be indexed and stored in such a way that they are readily retrievable.
- 6.11 Certification records shall be filled out in ink that is reproducible; the use of correction fluids is not permitted. Any corrections to a report shall have the erroneous information crossed out and the correct information inserted, dated and initialed by the Certification Representative.
- 6.12 Individual reports and data shall have sufficient spacing on the left hand margins in order that information is not lost when punching holes; alternatively, reports may be placed in plastic jackets.
- 6.13 If fluorescent markers or “high lighters” are used, TANK CONTRACTOR shall ensure that these remain visible on documents when copying or microfilming. Other suitable markers are recommended for marking up drawings.
- 6.14 Where documents are larger than the standard letter size paper, these documents are to be folded and placed in pre-punched plastic jackets. Where documents are smaller than the standard letter size sheets they shall be affixed to the standard size sheet(s).
- 6.15 Certification documents shall be placed in white or cream hard cover three ring binders. The front pocket shall be capable of taking a letter size title insert card, and the spine suitable to take a full-length title card. The dossier shall be clearly labeled on the spine and front cover. The front label and title page shall include as a minimum:
- a. Project Title
  - b. TANK CONTRACTOR’s Name and Job number
  - c. PURCHASER’S Name
  - d. Scope of Work title
  - e. Volume number and binder number. (e.g., Volume of, Binder of)
  - f. Title – e.g., Fabrication or System Test Dossier

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- 6.16 All dossiers shall contain an index specific to that particular dossier. If there is more than one volume the first volume shall include a general index for all the dossiers. Each additional volume in the dossier shall contain its own index.
  - 6.17 Tabbed plastic divider cards shall be used to separate the sections of data. The tabs shall show the number of the section and where possible the title. The tabs shall protrude sufficiently from the edge of the divider leaf to be easily visible. Subsections shall be kept together and shall not overlap into binders containing other sections.
  - 6.18 TANK CONTRACTOR shall perform a formal audit verification of the Dossier to verify that the index and contents are complete, correct, and properly collated. Each volume shall carry evidence of verification; this shall be in the form of a signature of the person performing the review and date.
  - 6.19 PURCHASER may elect to perform audits on all dossiers. If documentation produced by TANK CONTRACTOR is considered to be deficient or does not adequately demonstrate compliance with the specified requirements, TANK CONTRACTOR shall ensure that adequate suitable Certification is produced. TANK CONTRACTOR will give PURCHASER a time period in which all updates and corrections shall be made.
  - 6.20 An original and two copies of the completed Certification Dossier shall be submitted to PURCHASER.
  - 6.21 Hand-written documentation will not be accepted.
  - 6.22 All material CMTR's and/or Certificates of Conformance for TANK CONTRACTOR purchased material must be submitted to PURCHASER for review.

## **7.0 DOSSIER COMPLETION CHECKLIST**

TANK CONTRACTOR shall ensure that the following basic guidelines were adhered to before PURCHASER can accept a dossier as complete:

- 1. All Dossiers for that system or area and its copies have been submitted;
- 2. All Certification records have been signed off as verified and complete by PURCHASER and TANK CONTRACTOR;
- 3. For each Dossier submitted there is an exceptions list defining what is still outstanding; and
- 4. All As-builts have been submitted to PURCHASER.

## EXHIBIT B

## APPENDIX B-2

## SAFETY AND HEALTH (S&amp;H) STANDARDS

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**EXHIBIT B**

**APPENDIX B-2**

**SAFETY AND HEALTH (S&H ) STANDARDS**

**SECTION I – 100 SERIES**

**1.0 S&H Policy - Zero Accident Philosophy**

- 1.1 TANK CONTRACTOR shall have a written safety and health policy (“S&H Policy”) which demonstrates an understanding that safety and health (“S&H”) concepts must be closely integrated into the total business process and are an integral part of the business strategy just as cost, schedule and quality are. The S&H Policy must be formally communicated to, and fully understood by all levels of the TANK CONTRACTOR organization.
- 1.2 TANK CONTRACTOR’s S&H Policy shall:
  - 1.2.1 State that adequate resources will be provided to apply the best-known principles and techniques of loss prevention and performance measurement.
  - 1.2.2 Require that TANK CONTRACTOR’s site managers and all supervisors clearly communicate TANK CONTRACTOR’s S&H expectations at all Phase 2 Project meetings and by way of their actions demonstrate a personal commitment to follow the S&H Policy at all times.
- 1.3 PURCHASER has adopted a “Zero Accident” philosophy that all work related accidents, incidents, injuries and illnesses are preventable, and which promotes:
  - 1.3.1 The immediate identification and elimination of unsafe work practices and conditions in the work place.
  - 1.3.2 A heightened awareness of individual responsibility and increased supervisory attention to detail.
  - 1.3.3 Elimination of human error as a source of accidents, irrespective of rank or position in the organization.
  - 1.3.4 Building a team safety mentality where each worker contributes to the effort and each supervisor is fully aware of the capabilities and limitations of their team.
  - 1.3.5 A culture in which everyone accepts responsibility and accountability for their own and each co-worker’s safety and health.
- 1.4 TANK CONTRACTOR shall adopt the PURCHASER “Zero Accident” philosophy in performance of the Work under this Tank Contract, ensuring it is communicated to and fully understood by all levels of TANK CONTRACTOR’s organization. In its promotion of this philosophy, TANK CONTRACTOR shall incorporate into its S&H Plan, methods and strategies to eliminate work related accidents, incidents, injuries and illnesses.

**2.0 Responsibilities**

- 2.1 TANK CONTRACTOR shall submit to PURCHASER a written safety and health plan (“S&H Plan”), specific to the Work under this Tank Contract, for review and acceptance within thirty (30) calendar days of (prior to) Tank Contract award and in any event prior to commencing Work at the Phase 2 Site. This plan shall be amended when operations or conditions require and such amendments shall be submitted to PURCHASER for review and acceptance.

- 2.1.1 Where this Appendix requires a written plan (i.e. Hazard Communication Plan, see section 15.1, etc.), TANK CONTRACTOR may satisfy this requirement with an appropriate (approved by PURCHASER) section in TANK CONTRACTOR's S&H Plan.
- 2.1.2 Where this Appendix requires a written procedure (i.e., Scaffolding Procedure, see section 26.1, etc.), TANK CONTRACTOR must, as required by PURCHASER, also provide separate and detailed instructions on that subject.

TANK CONTRACTOR shall flow all Phase 2 Project S&H requirements to Subcontractors, Subsubcontractors, and visitors and acknowledges it is responsible for the performance of its visitors, Subcontractors and Subsubcontractors. Subcontractors and Subsubcontractors shall submit S&H plans for approval prior to starting Work and shall comply with all PURCHASER requirements.

- 2.2 TANK CONTRACTOR's S&H Plan shall require that management/supervisory actions demonstrate that cost, schedule, and quality concerns do not prevail over S&H requirements on the Phase 2 Project.
- 2.3 TANK CONTRACTOR's S&H Plan shall delineate the roles and responsibilities of managers and supervisors and require that their actions clearly demonstrate an understanding of their roles and responsibilities in regard to the safety process. The plan shall describe the system by which managers and supervisors will be held accountable for S&H implementation.
- 2.4 TANK CONTRACTOR's S&H Representative(s) and their staff shall have sufficient authority and control to ensure effectiveness of the S&H process and TANK CONTRACTOR shall hold them accountable for facilitating its implementation.
- 2.5 TANK CONTRACTOR's managers and supervisors shall be familiar with and enforce S&H rules, regulations, and laws and document all actions taken to ensure compliance with TANK CONTRACTOR's S&H Plan.
- 2.6 TANK CONTRACTOR's managers and supervisors shall take part in scheduled work area audits, implement and document required corrective actions.
- 2.7 TANK CONTRACTOR's Site Manager shall support, promote, and participate in a PURCHASER Zero Accident/Incident Management Team. TANK CONTRACTOR shall also make available a number of hourly employees, agreed to by PURCHASER, to participate in Phase 2 Project S&H teams.
- 2.8 TANK CONTRACTOR's Site Management shall attend and clearly communicate TANK CONTRACTOR's S&H expectations at all employee S&H Orientations.
- 2.9 TANK CONTRACTOR Site Management, managers, and supervisors shall participate in scheduled, documented S&H assessments to be conducted by PURCHASER. TANK CONTRACTOR shall also conduct and document its own self-assessments.
- 2.10 TANK CONTRACTOR's managers and supervisors shall provide documented, positive reinforcement and recognition for safe behavior.
- 2.11 TANK CONTRACTOR's managers and supervisors shall attend, actively participate in, and consistently demonstrate strong leadership at weekly Toolbox Safety Meetings.
- 2.12 TANK CONTRACTOR's managers and supervisors shall actively participate in documented pre-job planning activities. Specifically, Job Hazard Analysis' (JHA) and employee pre-task planning sessions known as Safe Task And Risk Reduction Talks (STARRT), or an approved alternate program.

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- 2.12.1 JHA is used to identify, analyze, understand and mitigate potential hazards associated with repetitive or potentially hazardous work operations.
  - 2.12.2 STARRT is a pre-task planning tool to be used by all work crews, which allows the employees of a work group to review a task before starting work.
  - 2.13 TANK CONTRACTOR's managers and supervisors shall participate in a Phase 2 Project behavior based safety (People Based Safety – PBS) process which incorporates employee observation of the work place.
  - 2.14 TANK CONTRACTOR's managers and supervisors shall encourage and allow members assigned to the People Based Safety team process adequate time to conduct observations; see section 9.0.
  - 2.15 TANK CONTRACTOR's S&H Representative shall participate in the Phase 2 Project People (behavior) -based safety process and S&H orientation process.
  - 2.16 TANK CONTRACTOR's S&H Representative shall actively participate in and/or provide specialized S&H training, such as confined space, fire watch, elevated work platforms, etc.
  - 2.17 TANK CONTRACTOR shall inform all its Phase 2 Project personnel of potential hazardous conditions and/or near miss incidents and shall document such communications.
  - 2.18 Before beginning any work, TANK CONTRACTOR shall require all Subcontractors and Subsubcontractors to submit a written S&H Plan specific to their scope of work. TANK CONTRACTOR shall review and accept all such plans for compliance with PURCHASER and regulatory requirements. PURCHASER shall also review these plans to ensure they comply with all site S&H requirements. In the event PURCHASER identifies areas for modification, the TANK CONTRACTOR shall ensure these areas are modified to PURCHASER satisfaction in a timely manner.
  - 2.19 TANK CONTRACTOR shall employ S&H Representative(s) acceptable to PURCHASER, submitting resumes and credentials for PURCHASER review, verification, and acceptance. S&H Representative(s) shall be resident on the Phase 2 Project for all TANK CONTRACTOR Work activities.
  - 2.20 TANK CONTRACTOR shall require all supervisors attend a weekly Supervisor S&H Meeting held by PURCHASER.
  - 2.21 TANK CONTRACTOR shall participate in work area audits and root cause investigations.
  - 2.22 TANK CONTRACTOR shall have current copies of applicable codes and standards readily available.
  - 2.23 TANK CONTRACTOR shall conform to the Phase 2 Project Drug and Alcohol Program. This program may at PURCHASER's discretion include Pre-Employment, For Cause, Post Accident, and Random drug screening. See Section 39.0 Drug and Alcohol Policy.
  - 2.24 TANK CONTRACTOR employees shall attend and participate in weekly Toolbox Safety Meetings.

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- 2.25 TANK CONTRACTOR's foremen shall complete, file and make available to PURCHASER weekly Toolbox Safety Meeting minutes.
  - 2.26 TANK CONTRACTOR shall know and comply with the Phase 2 Project Construction Environmental Control Plan (CECP).
  - 2.27 TANK CONTRACTOR shall stop work if unknown or unanticipated hazards or work conditions evolve which place employees at risk or necessitate greater precautions than currently exist or are required in the S&H Plan. TANK CONTRACTOR shall immediately report all such issues to PURCHASER.

### **3.0 Orientation & Training**

- 3.1 PURCHASER may elect to provide all site training, however TANK CONTRACTOR Management shall include, and have Subcontractors and Subsubcontractors include, in their bid the support, time and resources necessary to ensure adequate and effective training compliant to regulatory and PURCHASER requirements is provided and documented. Supervisors shall ensure adequate time is provided for such training.
- 3.2 Before employees of TANK CONTRACTOR or any Subcontractor or Subsubcontractor are placed on the Phase 2 Site, training shall be provided which satisfies Phase 2 Project training requirements. A verification process (i.e. comprehension testing) shall be implemented to evaluate and ensure employee knowledge and understanding of all training provided.
- 3.3 TANK CONTRACTOR shall ensure that training materials are updated to reflect changes in applicable laws, regulations or Phase 2 Project requirements.
- 3.4 TANK CONTRACTOR shall provide and require employees to attend specialized training applicable to their work (e.g. confined space, benzene, fire watch, etc).
- 3.5 TANK CONTRACTOR shall ensure qualified TANK CONTRACTOR or vendor instructors present all specialized training and such training is conducted in a manner that provides sufficient space, time, and materials.
- 3.6 TANK CONTRACTOR shall provide Phase 2 Project S&H Practices Booklets or similar handout(s) approved by PURCHASER to all employees, and all Subcontractor and Subsubcontractor employees.
- 3.7 TANK CONTRACTOR and all Subcontractors and Subsubcontractors should assume that employees will attend their company specific New Employee Orientation, in addition to PURCHASER's New Employee Orientation, which shall include the thorough coverage of PURCHASER's and TANK CONTRACTOR's S&H requirements. Documentation of all training and comprehension testing shall be kept on file and made available to PURCHASER. PURCHASER New Employee Orientation should be estimated to be approximately 4 hours in length.
- 3.8 TANK CONTRACTOR shall have a tracking system in place to ensure all employees attend the New Employee Orientations. A system shall be put in place by TANK CONTRACTOR for employees in the initial 30 days to verify their S&H requirement competency. TANK CONTRACTOR may use PURCHASER's process or submit a plan for review and approval.
- 3.9 TANK CONTRACTOR shall have a system to clearly identify new employees for their initial thirty (30) days in the field (e.g. stickers, colored hard hats, etc.)

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- 3.10 TANK CONTRACTOR's managers and supervisors shall be educated on TANK CONTRACTOR's S&H Plan and Management System.
  - 3.11 PURCHASER's S&H Supervisor shall be notified when a new supervisor is assigned, transferred, or hired. Supervisors shall participate in a Supervisor S&H Orientation developed by TANK CONTRACTOR and approved by the PURCHASER S&H Supervisor. A full explanation of the Zero Accidents Philosophy and the requirements of the S&H Plan shall be provided as part of the Supervisor S&H Orientation. Documentation of this training shall be maintained at the project S&H office and available for review.
  - 3.12 TANK CONTRACTOR shall ensure that anyone who will be performing Work on the Phase 2 Tanks (TANK CONTRACTOR, Subcontractor or Subsubcontractor) shall have appropriate training including PURCHASER New Hire Orientation prior to commencing Work.
  - 3.13 TANK CONTRACTOR shall ensure that all Phase 2 Project visitors/vendors/delivery personnel are escorted at all times by an authorized and responsible TANK CONTRACTOR employee who is knowledgeable of all S&H practices and procedures and instructs and supervises the visitor/vendor/delivery person accordingly by a visitor S&H orientation or similar documentation approved by the PURCHASER.

#### **4.0 Medical Services & Medical Treatment**

PURCHASER may elect to provide first aid services for the project. However, for bidding purposes the TANK CONTRACTOR shall assume it will be responsible for first aid as well as management to injuries beyond first aid. Emergency services may be provided by PURCHASER or a local organization, however, the TANK CONTRACTOR should assume that they have this responsibility for their company.

- 4.1 TANK CONTRACTOR shall identify a panel of physicians it deems acceptable for rendering treatment for work related injuries and illnesses and a certified physician to function as their Medical Director. The Medical Director shall provide TANK CONTRACTOR with written medical directives/protocols that will be followed by all TANK CONTRACTOR medical personnel. Protocols shall be updated at least annually. These protocols shall be kept in the medical facility and available for review.
- 4.2 If TANK CONTRACTOR site personnel provide medical treatment they shall be properly trained and qualified with a copy of their current certifications maintained on site.
- 4.3 TANK CONTRACTOR shall ensure its employees understand and comply with Phase 2 Project and TANK CONTRACTOR medical management procedures.
- 4.4 TANK CONTRACTOR's S&H Representative shall review all return-to-work orders.
- 4.5 If the TANK CONTRACTOR is required to have emergency equipment it shall be inspected daily to ensure effective operation. All such inspections shall be documented, kept on file, and made available to PURCHASER.
- 4.6 TANK CONTRACTOR shall maintain clean and orderly first-aid facilities and locations where first aid treatment is provided.
- 4.7 TANK CONTRACTOR shall ensure injured employees are referred to qualified industrial/occupational medical providers if offsite treatment is needed. The injured employee's employer shall provide transportation for such offsite medical treatment.

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- 4.8 TANK CONTRACTOR employees injured on the Phase 2 Project and returned for modified duty shall have this status documented by the treating medical practitioner and reported to the PURCHASER S&H Supervisor.

## **5.0 Medical Reporting & Records**

- 5.1 TANK CONTRACTOR medical records shall be maintained up-to-date. A weekly and monthly Injury/Illness and Hours Worked report shall be submitted to the PURCHASER S&H Supervisor on a form supplied by PURCHASER.
- 5.2 All matters pertaining to medical records and reports shall be kept strictly confidential. TANK CONTRACTOR shall maintain and file its own workers' compensation or insurance claims forms as/if applicable.
- 5.3 TANK CONTRACTOR shall develop a method for tracking the status of injuries and shall produce and provide to PURCHASER a weekly S&H Performance Report with that information. TANK CONTRACTOR shall distribute this report to its supervisory personnel and discuss the contents during safety meetings. TANK CONTRACTOR shall take measures to counter unsatisfactory trends and accurately document such efforts.

## **6.0 Safe Task / Job Analysis**

- 6.1 TANK CONTRACTOR shall use PURCHASER's Job Hazard Analysis system (JHA) and its employee pre-task planning process known as Safety Task And Risk Reduction Talks (STARRT). If preferred, TANK CONTRACTOR may use its own equivalent systems, subject to PURCHASER review and acceptance.
- 6.2 The JHA shall be used to describe work steps and to identify, analyze, understand and mitigate potential hazards associated with repetitive or potentially hazardous work operations engaged in over a period of time. The JHA format will be provided by PURCHASER and completed by TANK CONTRACTOR.
- The supervisor shall use the STARRT process, with participation from the entire crew, to identify potential hazards associated with a particular task, just prior to its commencement. The STARRT process shall be used at the beginning of every shift and prior to starting any new task in the course of a shift. The process takes approximately fifteen (15) minutes each morning or before beginning any new work task during the course of a shift.
- 6.3 Supervisors shall ensure that their employees understand the purpose of, and participate in the JHA and STARRT processes and shall use them as primary planning and lessons learned tools.

## **7.0 Zero Injury Team**

- 7.1 TANK CONTRACTOR shall participate in PURCHASER's system of employee involvement known as Zero Accident/Incident Teams (ZAT/ZIT). TANK CONTRACTOR may use its own equivalent system of employee involvement teams if submitted to PURCHASER for review and acceptance.
- 7.2 Team meetings shall be held at least monthly and will focus on specific problems or work assignments, observation data and concerns arising from the observation process, audit and inspection reports, and negative injury trends, etc. All employees shall be kept informed of Team activities and accomplishments

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## **8.0 Reporting / Investigating Incidents & Accidents**

- 8.1 TANK CONTRACTOR's New Employee Orientation shall include information about employee responsibility for reporting all injuries, illnesses, property damage and near miss incidents. TANK CONTRACTOR shall promptly report all such occurrences to PURCHASER and unless directed otherwise, will take the lead in the investigation, documentation and initiation of corrective action. TANK CONTRACTOR shall keep records of all incident/accident investigations in a format acceptable to PURCHASER and shall provide PURCHASER with a copy of incident reports as described below:
  - 0-60 Initial report (notification) within 1 hour of occurrence or report of occurrence.
  - Final Incident report within three (3) business days except for any safety incident involving a significant event such as LNG or Natural Gas releases, fires, explosions, mechanical failures, unusual over-pressurizations of permanent plant equipment, and major injuries which shall be provided within eight(8) hours.
- 8.2 TANK CONTRACTOR shall develop a written Notification and Investigation Procedure acceptable to PURCHASER. TANK CONTRACTOR's S&H Representative shall oversee the investigation of all incident and accident cases and reports. Information derived from such reports shall be issued as lessons learned to all employees on the Phase 2 Project.

## **9.0 People Based Safety Process**

- 9.1 TANK CONTRACTOR shall participate in a Safe People Based Safety Process established by PURCHASER. This normally calls for several TANK CONTRACTOR employees to be made available for meetings and to conduct observations.
- 9.2 Observation data shall be collected in a timely and consistent fashion by TANK CONTRACTOR and provided to PURCHASER. The data will be used to produce reports for TANK CONTRACTOR use in staff and safety meetings to identify trends and develop remedial action plans. The employee involvement team (ZAT/ZIT) will also review this data.
- 9.3 Observation team members shall be chosen from personnel exhibiting natural leadership ability and shall be provided training by or acceptable to PURCHASER.
- 9.4 TANK CONTRACTOR management personnel and supervisors shall be trained in behavior based safety concepts and methodology, safe behavior reinforcement, and the safe observation process.
- 9.5 TANK CONTRACTOR employees shall be informed of the People Based Safety process as part of TANK CONTRACTOR's New Employee Orientation.

## **10.0 Back Injury Prevention Program**

- 10.1 TANK CONTRACTOR shall establish a Back Injury Prevention Program acceptable to PURCHASER. A back injury prevention program shall consist of morning stretching, continuing education, and shall apply to all employees.
- 10.2 The back injury prevention program shall be an integral part of TANK CONTRACTOR's New Employee Orientation. Back injury prevention awareness training shall be conducted at least once per month, and shall be documented through the use of the tool box safety meeting minutes

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**11.0****S & H Assessments**

- 11.1 TANK CONTRACTOR shall establish a documented assessment process acceptable to PURCHASER, which measures compliance with the S&H Plan and TANK CONTRACTOR's own S&H processes.
- 11.2 TANK CONTRACTOR shall use information derived from its assessment process in Supervisor Safety Meetings to enhance supervisor safety awareness and improve overall TANK CONTRACTOR safety performance.
- 11.3 PURCHASER will perform periodic S&H assessments of the Phase 2 Project. TANK CONTRACTOR shall provide PURCHASER with timely, complete and open access to its safety process, files, records, etc., and shall participate in this assessment as/if requested. TANK CONTRACTOR shall provide the employees as requested by the PURCHASER to perform these assessments. It should be estimated to provide 1 to 2 supervisory and/or non-supervisory personnel .

**12.0****Regulatory Agency Inspections**

- 12.1 TANK CONTRACTOR shall ensure its personnel are aware of and comply with the procedures to be taken in the event of a government inspection of any type.
- 12.2 TANK CONTRACTOR shall immediately notify the PURCHASER Site Manager and S&H Supervisor when a regulatory agency inspector of any type requests entry onto the Phase 2 Tank Site.
- 12.3 Following any regulatory agency inspection, TANK CONTRACTOR shall submit a written report to the PURCHASER S&H Supervisor which details all aspects of the inspection.

**13.0****TANK CONTRACTOR Training for Process Safety Management**

- 13.1 When/where applicable TANK CONTRACTOR shall develop a Phase 2 Project specific Process Safety Management (PSM) Plan and shall ensure that affected employees and visitors receive PSM training, which meets Owner and regulatory requirements.
- 13.2 When/where applicable, as determined by PURCHASER, TANK CONTRACTOR shall be required to participate in the investigation of any PSM incidents.
- 13.3 Within the U.S., TANK CONTRACTOR shall submit a written PSM Plan that complies with OSHA General Industrial Standard 1910.119.



**14.0 Tools & Equipment**

- 14.1 TANK CONTRACTOR shall provide and ensure that all tools are used in accordance with the manufacturers' recommendations, have required guards in place, and are maintained in good working order. All employee-owned tools are subject to these requirements.
- 14.2 TANK CONTRACTOR will ensure that excess flow valves are installed on air manifolds and compressors supplying air to >1/2 inch (or equivalent metric) ID hoses.
- 14.3 TANK CONTRACTOR will not use job-made tools of any kind on the Phase 2 Project (e.g. tools made of rebar, rigging equipment, etc.). All tools and equipment shall be used and maintained in accordance with manufacturer recommendations. If exceptions to this rule are needed (i.e. spreader beams), they must be brought to PURCHASER's attention for review and acceptance prior to use.
- 14.4 TANK CONTRACTOR shall only permit properly trained and certified employees to use powder-actuated tools. Documentation of the employees training shall be made available to PURCHASER and each employee using such tools shall carry qualification cards. Control shall be kept of the powder-actuated charges. Each cartridge shall be accounted for and properly stored. No live or spent cartridges shall be left on the ground or disposed of in Phase 2 Project trashcans or other unauthorized on or off-site container.
- 14.5 TANK CONTRACTOR shall ensure that Work is performed only in areas and at times where adequate illumination exists. TANK CONTRACTOR shall provide all lighting required to safely perform Work. Artificial lighting equipment shall be manufactured to a recognized international standard acceptable to PURCHASER.

**15.0 Hazard Communication**

- 15.1 TANK CONTRACTOR shall develop a written Hazard Communication Plan and, as required, implementing procedures describing the method it will use to communicate the hazards associated with chemical handling, use, storage and disposal. The plan shall be submitted and acceptable to PURCHASER prior to beginning work and shall comply with the Phase 2 Project Construction Environmental Control Plan.
- 15.2 TANK CONTRACTOR shall seek approval from PURCHASER for chemicals to be brought onto the Site and make available to PURCHASER Material Safety Data Sheets (MSDS) for each hazardous material purchased and/or carried onto the Site. Materials that arrive without an MSDS shall be quarantined and not released until the MSDS is received on Site and PURCHASER approves the material for use. TANK CONTRACTOR shall maintain a list of hazardous materials on Site and the quantities of each.
- 15.3 TANK CONTRACTOR shall ensure that employees are trained in the recognition, proper handling and use of hazardous substances. TANK CONTRACTOR's New Employee Orientation shall include introductory training on the topic of hazardous substances; however, specific hazardous material training shall be provided by the TANK CONTRACTOR for its Phase 2 Project employees whose work involves the use of any hazardous material under its control. Such training shall be properly documented, filed and made available to PURCHASER.
- 15.4 TANK CONTRACTOR shall properly label all hazardous substances and/or chemicals that have been transferred from the manufacturer's container into another container and maintain labels on original containers. Inspections shall be made and documented by the TANK CONTRACTOR to ensure that adequate labeling occurs.

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**16.0 Emergencies & Evacuations**

- 16.1 TANK CONTRACTOR shall develop an Emergency Response Plan and, as required, implementing procedures compatible with the Phase 2 Project Emergency Response Plan and shall provide all emergency equipment and supplies needed to support the Work and each work location. The plan will address emergency evacuation, medical emergencies, civil unrest, natural disasters, etc. The plan shall be submitted and acceptable to PURCHASER. The plan shall include emergency alarm systems, assembly and evacuation points, an employee head count process, and provisions for employee training before entering the Site and any specific worksite as a part of TANK CONTRACTOR's New Employee Orientation. Periodic tests and drills shall be conducted as required.
- 16.2 TANK CONTRACTOR shall ensure that Emergency Response Plan requirements are clearly communicated to its Phase 2 Project personnel. Such communication and employee comprehension and participation shall be documented.

**17.0 Bloodborne Pathogens**

- 17.1 TANK CONTRACTOR employees who are exposed to blood-borne pathogens shall be properly trained regarding their responsibilities, required control measures, and personal safety. Proper personal protective equipment shall be used when exposure hazards exist. Each TANK CONTRACTOR employee whose job duties puts them at risk of exposure (i.e. medic, nurse, first aid person, etc.) shall be offered vaccinations and documentation of the vaccination or declination shall be maintained and made available to PURCHASER.
- 17.2 TANK CONTRACTOR shall provide all its employees with a general overview on the hazards associated with bloodborne pathogens, possible means of exposure, and proper control methods. Documentation of training shall be maintained.
- 17.3 If the TANK CONTRACTOR performs a first aid function at the Phase 2 Site, provisions acceptable to PURCHASER shall be made for proper disposal of hazardous medical wastes and a sign posted in the treatment area warning of biohazards. A "sharps" container acceptable to PURCHASER shall be maintained in the first aid area for the secure disposal of used needles and similar medical waste. Proper sterilization methods and materials shall be used.

**18.0 Personal Protective Equipment**

- 18.1 TANK CONTRACTOR shall require employees to wear eye protection equipped with hard side shields (safety glasses) manufactured in accordance with ANSI Z87 standards. This applies to prescription eyewear as well. TANK CONTRACTOR shall monitor the eye protection worn by its employees and take immediate corrective actions when non-compliance is noted. Employees performing grinding and buffing operations shall wear face shields and safety glasses or mono goggles.
- 18.2 Welders shall wear hardhat/welding hood combinations manufactured in accordance with ANSI Z89.1 and safety glasses while welding. Welding screens shall be used to protect other employees from the hazards associated with direct welding arc rays.
- 18.3 TANK CONTRACTOR employees with field responsibilities shall wear sturdy work boots manufactured in accordance with national standard(ANSI Z41).

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- 18.4 TANK CONTRACTOR employees shall receive information regarding personal protective equipment requirements during TANK CONTRACTOR's New Employee Orientation.
  - 18.5 TANK CONTRACTOR shall provide its employees with life jackets when working over or near open water and shall require their use. TANK CONTRACTOR supplied life rings, rope and a rescue vessel acceptable to PURCHASER shall be in place when a drowning threat exists.
  - 18.6 TANK CONTRACTOR employees who handle chemicals or harmful substances shall be trained and shall wear appropriate personal protective equipment per the chemical manufacturer's recommendations.
  - 18.7 Hardhats manufactured in accordance with ANSI Z89.1 shall, be worn with the brim forward at all times when in the field. Company and employee name shall be conspicuously displayed.
  - 18.8 TANK CONTRACTOR may be required to use flame retardant clothing such as Nomex, PBI or Duraban. Normally this will occur when flammable and/or combustible product is introduced into the unit.
  - 18.9 TANK CONTRACTOR shall provide and require the use of hearing protection manufactured to OSHA 29 CFR 1910.95 standards whenever a hearing hazard exists.

**19.0 Respiratory Protection**

- 19.1 TANK CONTRACTOR shall provide and require the use of appropriate respiratory protective equipment, manufactured in accordance with NIOSH/MSHA standards, whenever a respiratory system hazard exists.
- 19.2 TANK CONTRACTOR shall have a written Respiratory Equipment Procedure for the use, care and sanitation of respiratory equipment. This procedure shall include the name of the procedure administrator for the Phase 2 Tank Site, cartridge change out data, method to be used for sanitizing respirators, medical qualifications of those required to wear respirators, methods of fit testing and employee training.
- 19.3 TANK CONTRACTOR supervisors shall notify PURCHASER's S&H Supervisor before starting any Work that requires employees to wear respiratory protection.
- 19.4 Provisions shall be made for employees who wear corrective lenses and are required to wear full-face respiratory protection. These provisions shall include rotation from such respiratory protection work and eyeglass inserts or special lenses, as/if required.
- 19.5 Training shall be provided that includes all regulatory and Respiratory Equipment Procedure requirements. The records of such training shall be maintained by TANK CONTRACTOR and made available to PURCHASER.
- 19.6 A competent person shall be trained and designated by TANK CONTRACTOR to store, maintain, inspect, and clean respiratory equipment

**20.0 Hearing Conservation Program**

- 20.1 TANK CONTRACTOR shall have a written Hearing Conservation Procedure. The procedure shall include noise surveys, engineering controls, the procurement and use of low noise equipment when possible, posting of signs and warnings for areas found to require hearing protection, and training on hearing protection devices used on the Phase 2 Project.

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- 20.2 Unless otherwise specified by PURCHASER, TANK CONTRACTOR shall provide equipment for sampling and monitoring noise levels. This equipment shall be calibrated before and after use and all measurements documented and made available to PURCHASER.

**21.0 Air Surveillance Program**

- 21.1 As/if required, TANK CONTRACTOR shall develop a written Air Surveillance Procedure. All logs and records shall be maintained for sampling, monitoring, and identifying the source of contaminants. These records shall be made available to PURCHASER. A competent person, whose resume and qualifications shall be submitted and determined acceptable by PURCHASER, shall conduct air monitoring and/or sampling.
- 21.2 TANK CONTRACTOR shall perform inspections to identify and mitigate Phase 2 Project and/or public risks and exposures to potential toxic, hazardous or explosive atmospheres.
- 21.3 TANK CONTRACTOR shall provide equipment adequate for the environmental sampling and monitoring of atmospheres and shall ensure that the equipment is calibrated per the manufacturer recommendations.

**22.0 Construction Non-Destructive Testing**

- 22.1 TANK CONTRACTOR shall submit a written Radiography/Non-Destructive Testing Safety Procedure to PURCHASER for review and acceptance prior to any such work taking place.
- 22.2 Radiography work shall be performed under a PURCHASER issued "Permit for Radiography" and only by TANK CONTRACTOR personnel or Subcontractors or Subsubcontractors possessing the proper licenses and certificates.
- 22.3 Where laboratories are used to analyze samples, the laboratories shall be acceptable to PURCHASER.
- 22.4 TANK CONTRACTOR shall ensure that any Subcontractors or Subsubcontractors that perform nondestructive testing have the required permits and licenses which shall be made available to PURCHASER.
- 22.5 TANK CONTRACTOR shall instruct employees on the potential for radioactive hazards during radiography and the precautions to be followed in the event of an emergency.
- 22.6 TANK CONTRACTOR shall ensure that radiographic exposure devices, storage containers and source changers are kept locked and physically secure when not in use. Perimeter areas around radiographic work shall be properly barricaded and posted with appropriate warning signs. TANK CONTRACTOR shall conduct perimeter surveys whenever radiography is in progress. PURCHASER shall approve each such activity prior to its commencement.

**23.0 Heat & Cold Stress Prevention**

- 23.1 As/if required, TANK CONTRACTOR shall have operating and emergency procedures for heat and/or cold stress.

- 23.2 TANK CONTRACTOR shall ensure that all field employees, especially front line supervisors, are trained on the warning signs/symptoms of early heat or cold related disorders, and instructed on the clothing and work methods best suited to avoid heat and/or cold stress. Stay times shall be developed to reduce the possibility of heat or cold related disorders, if necessary.
- 23.3 Unless specified by PURCHASER, TANK CONTRACTOR shall provide an immediately accessible, adequate, and sanitary potable water supply during all periods of the day and have available electrolyte replacement drinks or tablets during seasons of the year when heat stress may occur.
- 23.4 The TANK CONTRACTOR will be responsible for development of a Heat Stress reduction plan acceptable to PURCHASER, during hot parts of the year. This plan may include at TANK CONTRACTOR's cost, use of evaporative coolers, cool down stations, etc.

**24.0 House Keeping, Fire Prevention & Protection**

- 24.1 All eating and sanitary facilities (either shared or TANK CONTRACTOR controlled) shall be maintained in a clean and sanitary condition at all times. TANK CONTRACTOR must provide the necessary resources to accomplish this, including adequate washing facilities with soap and disposable towels and whatever labor is required to clean and maintain a high level of sanitation.
- 24.2 Unless specified elsewhere in the Tank Contract, TANK CONTRACTOR shall provide clean, potable drinking water for its employees in a safe, hygienic manner at all worksites. Single use cups shall be provided in a sanitary dispenser. These cups shall be replenished as needed during the day and trashcans provided for their disposal. "Community" or common use cups shall not be used.
- 24.3 Unless specified elsewhere in the Tank Contract, TANK CONTRACTOR shall provide and maintain its own sanitary toilet facilities for its employees. The daily facilities cleaning, and maintenance, and method and location of waste disposal shall be to a high standard acceptable to PURCHASER.
- 24.4 Prior to starting any Work, TANK CONTRACTOR shall develop and submit to PURCHASER for review and acceptance a Fire Protection and Prevention Plan specific to the Work under this Tank Contract.
- 24.5 TANK CONTRACTOR shall provide all fire protection and prevention equipment necessary for its operations, including, but not limited to fire hose, nozzles, extinguishers, etc. TANK CONTRACTOR shall provide an adequate number of fire extinguishers of the correct size and type for its work activities. Extinguishers shall be maintained per manufacturers recommendations, inspected monthly, and tested annually. TANK CONTRACTOR shall train applicable employees in the proper use of fire extinguishers.
- 24.6 TANK CONTRACTOR shall include in its Fire Protection and Prevention Plan a plan to ensure that fire protection equipment is placed and maintained in proper locations as work progresses.
- 24.7 TANK CONTRACTOR shall monitor its work and office areas to ensure that all doors, stairwells, aisles and means of egress are kept clear and unobstructed at all times.
- 24.8 TANK CONTRACTOR shall ensure all exits are clearly marked and adequately lighted, and that all emergency lights remain functional.

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- 24.9 TANK CONTRACTOR shall develop a specific written Flammable and Combustible Material Storage Procedure setting out the requirements for the handling, storage, and use of flammable and combustible liquids, and shall ensure they are stored properly, dispensed in safety cans manufactured to a recognized international standard acceptable to PURCHASER, and areas designated for these activities are maintained in an orderly fashion. All hazardous areas shall be posted with appropriate signs and access shall be controlled.
- 24.10 Where temporary welding enclosures are required, TANK CONTRACTOR shall ensure that these enclosures are constructed with flame resistant materials (such as fire blanket).
- 24.11 TANK CONTRACTOR shall instruct its employees in regards to the facility/Phase 2 Project smoking policy and monitor to ensure that posted "no-smoking" zones are observed.
- 24.12 TANK CONTRACTOR office areas shall be monitored to reduce and control storage and loading of combustible materials. Material shall be well arranged, and aisles shall be maintained open and clear of obstructions. Stored material shall be kept away from heaters, lamps, hot pipes, equipment, and machinery and the use of extension cords minimized.
- 24.13 TANK CONTRACTOR personnel whose work tasks are in the vicinity of fire cabinets and equipment, fire hydrants, and fire lanes shall keep them clear and unobstructed.
- 24.14 TANK CONTRACTOR shall maintain a minimum of 18 inches or 1/2 meter of free space around sprinkler heads when working in facilities having sprinkler systems.
- 24.15 TANK CONTRACTOR shall ensure that combustible waste containers are emptied regularly; equipment, tables, and floors are free from oil or oily rags; and oily rag containers are kept covered and emptied regularly. Janitor/storage closets shall be maintained in an orderly condition and shall not be used to store quantities of hazardous or toxic chemicals. Electrical, mechanical, and telegraphic rooms shall be kept in order and free of combustible storage materials. Cable trays and raceways shall be free of combustible material, debris, or trash. Aerosol cans, fluorescent tubes and batteries cannot be disposed on in the regular trash. Arrangements for their disposal must be arranged in compliance with the construction environmental control plan.
- 24.16 TANK CONTRACTOR shall protect its employees against welding and cutting hazards. TANK CONTRACTOR's S&H Plan shall address fire concerns including fire watches where necessary, welding fumes, preservative coatings, respiratory protection, eye/head/body protection, etc. Welding and cutting apparatus shall be inspected before each use. Cutting torch assemblies shall be equipped with pressure relief valves, back flow prevention devices, and flash arrestors.
- 24.17 TANK CONTRACTOR shall ensure that employees are trained in and comply with the requirements for proper fire prevention and equipment use when welding or cutting.
- 24.18 TANK CONTRACTOR shall effectively ground the frame of Arc-welding and cutting machines that incorporate a power outlet.
- 24.19 TANK CONTRACTOR shall develop a written Cutting, Welding and Grinding Procedure for the maintenance and inspection of welding, grinding, or cutting equipment and ensure that the procedure is implemented and maintained.
- 24.20 Unless otherwise specified by PURCHASER, TANK CONTRACTOR shall not permit open fires on the Phase 2 Tank Site.

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**25.0 Fall Prevention / Protection**

- 25.1 The TANK CONTRACTOR S&H Plan shall include a written Fall Prevention/Protection Procedure acceptable to PURCHASER, that makes maximum use of primary fall protection systems, such as scaffolds, aerial lifts, personnel hoists, etc.
- 25.2 TANK CONTRACTOR shall require the inspection of fall protection equipment prior to each use.
- 25.3 TANK CONTRACTOR shall adopt a 100% fall protection policy that makes provision for secondary fall protection (full-body harness) for all employees who are working or traveling more than 6 feet or 1.8 meters above ground. All fall protection devices shall be manufactured and used in accordance with a recognized international standard acceptable to PURCHASER.
- 25.4 TANK CONTRACTOR shall review its scope of work to identify the methods to achieve 100% fall protection prior to commencement of such work. Where lifeline systems are used, anchor points shall be capable of supporting at least 5,000 pounds or 2275 kg. Lifelines shall be installed and maintained by qualified persons who are competent and possess the rigging knowledge necessary to ensure the integrity and safety factors necessary for lifeline system installation. Lanyards shall be secured to vertical lifelines by rope grabs only. Knots, painters-hitches, or loops are not acceptable. Horizontal lifelines shall have tie-off points at least waist high.
- 25.5 TANK CONTRACTOR personnel and any Subcontractors and Subsubcontractors using retractable lifeline devices shall secure them by means acceptable to PURCHASER and in all cases by a means capable of supporting at least 5000 pounds or 2275 kg.
- 25.6 TANK CONTRACTOR shall require employees to wear an approved safety harness/lanyard system if they work from ladders where the fall exposure is less than 6 feet or 2 meters, and they are unable to maintain 3-point contact.

**26.0 Scaffolding**

- 26.1 TANK CONTRACTOR shall have a written Scaffolding Procedure and use scaffold material acceptable to PURCHASER.
- 26.2 Scaffold platforms shall be fully planked or decked out, capable of supporting 4 times the maximum intended load to be imposed upon them, and all sides protected by standard guardrail system. The top rail shall be 42 inches or 110 cm from the platform. A mid-rail and 4 inch or 10 cm toe-board shall be installed.
- 26.3 TANK CONTRACTOR erected scaffolds where employees are working/passing below shall have planking or netting installed from the platform to the top rail.
- 26.4 TANK CONTRACTOR shall develop a scaffold tagging system compatible with the PURCHASER's system. PURCHASER intends to use a three-tag system in which a red tag indicates scaffolds under construction or demolition, yellow indicates scaffolds that are complete but have hazards associated with them, and green indicates scaffolds erected to a complete, safe standard. TANK CONTRACTOR may duplicate the PURCHASER system.
- 26.5 TANK CONTRACTOR shall erect or modify scaffolds under the direction of a trained, competent scaffold builder whose resume and qualifications have been submitted to and

accepted by PURCHASER. The competent person shall sign all scaffold tags and perform and document inspections before initial use, including initial use following alteration, and daily thereafter.

- 26.6 TANK CONTRACTOR shall provide safe access/egress to all levels of scaffolds. Scaffold platform accesses shall be protected to prevent the possibility of accidental fall through utilizing secured access gates.
- 26.7 Special scaffolds (hanging scaffolds, 2 point suspension scaffolds, etc.) shall be designed by a competent engineer and erected with all necessary personnel safety equipment installed, such as rope grabs and lifelines.
- 26.8 TANK CONTRACTOR must have a qualified, professional engineer design all scaffolds over 125 feet or 38 meters in height.
- 26.9 All scaffolds erected by TANK CONTRACTOR shall have casters, jackscrews, or base plates installed. Mudsills shall be used where required. Scaffolds shall be level and plumb, capable of supporting at least four times the anticipated load, and secured to a solid structure whenever possible.
- 26.10 TANK CONTRACTOR shall provide scaffold user training to all employees, shall verify employee comprehension by testing and shall maintain training and testing records which will be made available to PURCHASER.
- 26.11 Scaffolds shall be inspected initially before use and on a daily basis for damage or defects.

## **27.0 Barricades**

- 27.1 TANK CONTRACTOR is responsible for properly erecting and maintaining barricades and barriers in such a manner that they provide adequate protection and do not impede the work of other contractors on the Site unless PURCHASER approves such placement.
- 27.2 Barricades and barriers erected by TANK CONTRACTOR shall have appropriate signs and tags indicating the nature of the hazard and the responsible supervisor. Barricades left after dark on or in close proximity to roadways shall be properly equipped with flashing amber lights.
- 27.3 TANK CONTRACTOR shall provide and use appropriate barrier devices to identify the nature of the job hazard involved (i.e., yellow and black for "CAUTION" or red and black for "DANGER"). Barrier devices, including barrier tape, shall not be used as a substitute for a barricade as they do not offer adequate protection from falls. Barrier devices shall be used only in those applications where temporary identification of a hazard is needed; but not as a primary means of protecting employees from exposure.
- 27.4 TANK CONTRACTOR shall ensure that employees understand and comply with barricade and barrier procedures (i.e. prohibited entry into red barrier taped areas).
- 27.5 Excavations shall be protected with hard barricades, placed 3 feet from the excavation. In situations where fall protection is required these barricades shall meet federal guidelines for handrails.

## **28.0 Floor & Wall Openings**

- 28.1 TANK CONTRACTOR shall review the fall hazards involved in its scope of work and construct standard handrail systems where required. Handrails shall be constructed with



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the top rail 42 inches or 110 cm from the floor or platform level and shall have a mid-rail and toe-board. Toe-boards shall extend 4 inches or 10 cm above the floor or platform level.

28.2 TANK CONTRACTOR shall install vertical support posts for handrails at intervals of not more than 8 feet or 2.5 meters.

28.3 TANK CONTRACTOR shall barricade all floor openings, or install properly labeled and substantial covers (3/4 inch, or equivalent metric, exterior grade plywood able to withstand at least twice the anticipated load). All floor-opening covers shall be stenciled or painted with this statement: "OPEN HOLE - DANGER, DO NOT REMOVE."

## **29.0 Excavations & Trenching**

29.1 TANK CONTRACTOR shall not commence any excavation or trenching work, until they have obtained permission and complied with the conditions of all required approval and permit authorities. Permits shall be kept on file and made available to PURCHASER.

29.2 TANK CONTRACTOR shall provide at the Phase 2 Tank Site a competent person whose resume and qualifications have been submitted to and accepted by PURCHASER, who will classify all soils and perform daily inspections of all excavations/trenches. These inspections shall be documented, kept on file, and made available to PURCHASER.

29.3 TANK CONTRACTOR shall have an engineered drawing for reference showing the location of all underground services and/or utilities, and will make all required notifications prior to commencing any excavation.

29.4 TANK CONTRACTOR shall ensure that spoil material is kept at least 3 feet or 1 meter away from the excavation edge.

29.5 Where trenches or excavations will exceed **4 feet** or 1.5 meters in depth, the TANK CONTRACTOR shall use protective systems acceptable to PURCHASER. No more than 25 feet or 7 meters of lateral travel shall be required in any trench to reach a ladder. Ladders must extend 36 inches above the ground level. Warning signs and barricades shall be installed in a manner that prevents accidental entry into the trenched or excavated area.

## **30.0 Vessels and Confined Spaces**

30.1 TANK CONTRACTOR shall have a written Confined Space Procedure that is acceptable to PURCHASER and which requires that all such Work be performed only on the basis of a TANK CONTRACTOR issued logged and numbered permit. At a minimum, in newly constructed confined spaces with little hazard of airborne contamination, monitoring for oxygen and explosive gasses shall be conducted as determined by PURCHASER. PURCHASER may require that monitoring equipment be provided by the TANK CONTRACTOR, calibrated to manufacturer recommendations and all calibration shall be documented. All employees entering or attending any confined spaces shall have proper, documented training. All calibration and training records shall be made available to PURCHASER.

30.2 TANK CONTRACTOR shall ensure that all employees have awareness training regarding the hazards of confined spaces and the procedures to be followed. Special training shall be provided to all entry supervisors, entrants, and attendants. TANK CONTRACTOR shall ensure that entry supervisors know, understand and execute their full responsibilities.

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- 30.3 TANK CONTRACTOR shall review its work areas and ensure confined spaces have been identified and marked accordingly. PURCHASER shall examine each confined space before initial entry to evaluate the specific hazards and TANK CONTRACTOR's safety precautions.
  - 30.4 Prior to each entry into a confined space TANK CONTRACTOR shall ensure:
    - 30.4.1 Proper ventilation equipment is used to purge or supply air to the confined space,
    - 30.4.2 All electrical service is low voltage or GFCI protected,
    - 30.4.3 Adequate access/egress from the confined space is provided,
    - 30.4.4 A task specific rescue plan has been developed and reviewed with all involved employees, and
    - 30.4.5 All external sources of atmospheric contamination are isolated.
  - 30.5 TANK CONTRACTOR shall evaluate all confined spaces for possible heat stress.
  - 30.6 TANK CONTRACTOR shall ensure that all personnel responsible for safety watches (confined space attendants) are easily identified, properly trained and aware of the duties associated with each emergency situation that may occur within the confined space.
  - 30.7 TANK CONTRACTOR shall ensure that an emergency rescue team is available for all confined space entries and that all employees know how to summon assistance.
  - 30.8 TANK CONTRACTOR shall not permit entry into any confined space until the permit system has been properly executed. The permit shall be conspicuously posted at the confined space and all entrants must sign a log upon entering and exiting the confined space.

**31.0 Lock out / Tag out Procedure**

- 31.1 TANK CONTRACTOR shall strictly comply with PURCHASER's lock-out/tag-out requirements and procedure.
- 31.2 TANK CONTRACTOR shall ensure that all employees have instruction on the specific lockout/ tagout procedure and comprehension testing shall be conducted to verify knowledge and understanding of the procedure. Records of training and testing shall be kept, filed, and made available to PURCHASER.

**32.0 Portable Ladders - Control & Inspection**

- 32.1 TANK CONTRACTOR shall monitor ladders to ensure all ladders used on the Phase 2 Tanks are constructed of wood or fiberglass (not metal) have non-slip feet, and that wooden ladders have been treated with preservative.
- 32.2 TANK CONTRACTOR will erect ladders so that access/egress areas are unobstructed.
- 32.3 TANK CONTRACTOR shall have a Ladder Inspection Procedure for the documented quarterly inspection of ladders. To achieve this an identification method (i.e. company name and number) and means to indicate inspection status (i.e. tape) shall be developed.

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- 32.4 TANK CONTRACTOR will use ladders for egress and/or to conduct low level work of short duration and will not use ladders in lieu of scaffolds as a primary means of conducting work of longer duration.

### **33.0 Cranes & Material Handling**

- 33.1 TANK CONTRACTOR shall provide the resources necessary for inspection and maintenance of rigging and lifting equipment and shall monitor all lifts to ensure that acceptable lifting practices are followed.
- 33.2 Tag lines shall be used on all lifts.
- 33.3 TANK CONTRACTOR and any Subcontractors or Subsubcontractors who are performing lifts in excess of 10 tons shall submit a lifting plan to PURCHASER for review and acceptance prior to performing the lift. If the lift is over 50 tons or classified as critical (exceeding 90% of the crane capacity chart, any two-crane lift or any lift over operating or occupied facilities, process pipe racks or near power lines) the TANK CONTRACTOR shall submit a detailed rigging plan with all applicable supporting calculations to PURCHASER for review and acceptance prior to the lift.
- 33.4 TANK CONTRACTOR shall designate a qualified supervisor to determine the methods and develop plans for rigging operations to ensure safe lifts.
- 33.5 TANK CONTRACTOR shall ensure that **all** equipment operators they provide are adequately trained and informed of their responsibility to operate their equipment within design limits.
- 33.6 All cranes supplied by TANK CONTRACTOR shall have current, annual, documented inspections of sufficient detail to be acceptable to PURCHASER. Documentation of such inspections shall be made available to PURCHASER prior to initial Phase 2 Tank Site use.
- 33.7 TANK CONTRACTOR shall provide and ensure that operators keep daily inspection logs for all equipment. No equipment shall be operated if hazardous conditions are identified.
- 33.8 TANK CONTRACTOR shall ensure that chain-falls, inertia reels, etc. have a documented inspection annually (including load tests). All rigging equipment shall undergo a visual inspection prior to each use and a documented inspection quarterly (a color code system shall be used to achieve this). All capacities shall be clearly indicated on lifting devices.
- 33.9 All rigging shall be stored properly (i.e. on racks or in protected areas).
- 33.10 TANK CONTRACTOR shall ensure all crane operations maintain minimum safe distances from all high voltage lines, as determined by PURCHASER. Up to 50KV that distance shall be 10 feet or 3 meters.
- 33.11 TANK CONTRACTOR shall ensure that the counter weight and housing swing radius of all cranes is properly barricaded whenever it is possible personnel may come into contact with or be struck by them.

### **34.0 Suspended Personnel Platforms**

- 34.1 TANK CONTRACTOR shall notify PURCHASER prior to using any suspended personnel platform and develop a Lift Procedure to be reviewed and accepted by PURCHASER prior to their use. The procedure shall include, but not be limited to, employee training, pre-lift meetings, trial lifts, and platform inspection.

- 34.2 Personnel platforms (baskets) provided by TANK CONTRACTOR shall be designed by a qualified engineer and manufactured by competent personnel. They shall have permanent markings indicating maximum weight.
- 34.3 If PURCHASER approves the use of crane suspended personnel platforms, TANK CONTRACTOR shall thoroughly inspect the crane/derrick and ensure it has an operational anti two block device and locking devices on the hook. Free fall capacity, if present, shall be positively locked out or disabled. The area under the lift shall be isolated by barrier tape and signs.
- 34.4 TANK CONTRACTOR shall provide a positive means of communication between the crane operator and employees in a crane suspended personnel platform. Employees in the platform shall wear full body harnesses attached to a designated anchor point.

**35.0 Articulating Boom Platforms**

- 35.1 Machines manufactured and used for elevated personnel platform work (JLG, Hi-lift, etc.) shall be operated and maintained in accordance with manufacturer recommendations and only by trained and qualified individuals. Training and comprehension test records shall be maintained on file at the Phase 2 Tank Site and made available to PURCHASER upon request.
- 35.2 All persons inside work platforms shall wear a full body harness attached to a designated anchor point. A fire extinguisher shall be provided on all such equipment. Equipment used to hoist personnel shall not be used for material, other than what can be carried safely in the basket for immediate use.
- 35.3 Employees shall not climb or stand on the handrails of the Articulating Boom Platform or use ladders or platforms to gain reach.

**36.0 Compressed Gas Cylinders**

- 36.1 TANK CONTRACTOR shall provide cradles and/or cages for lifting compressed gas cylinders and ensure that cylinders being transported are secured and in the upright position.
- 36.2 TANK CONTRACTOR shall create a Gas Cylinder Use and Storage Procedure that allows for proper use and storage of compressed gas cylinders. The procedure shall include segregation by type, proper signage, protective isolation of fuel gasses from oxygen, provisions to keep cylinder caps in place when provided by the supplier, positive upright securing of bottles, and maintenance of safe distances from ignition sources.
- 36.3 TANK CONTRACTOR shall ensure that each individual cylinder turned off by a key wrench is provided with a key wrench whenever in use.
- 36.4 Oxygen and Acetylene shall be stored with 20 feet of separation at a minimum or a 5-foot high barrier with a 1/2 hour fire rating.

**37.0 Electrical Equipment Inspection / Assured Grounding / GFCI**

- 37.1 TANK CONTRACTOR shall implement and fully comply with the PURCHASER Electrical Equipment Inspection and Assured Grounding Procedure, which includes quarterly color code changes and/or shall use of ground fault circuit interrupters (GFCI) on all temporary electrical applications.

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- 37.2 TANK CONTRACTOR shall train employees regarding electrical inspection and electrical safety in accordance with section 3.0.
  - 37.3 TANK CONTRACTOR shall maintain records of all tool inspections and make these records available to PURCHASER.
  - 37.4 TANK CONTRACTOR shall ensure all tools are checked for electrical continuity after repairs are made.

**38.0 Vehicle Operations**

- 38.1 TANK CONTRACTOR shall ensure all vehicles are registered/licensed, maintained in a roadworthy condition, and operated in a safe manner in accordance with manufacturer recommendations.
- 38.2 TANK CONTRACTOR shall ensure all persons operating vehicles are healthy and unimpaired, have appropriate and required operators licenses, and observe established road regulations and/or Site regulations.
- 38.3 TANK CONTRACTOR shall provide a seat belt for each vehicle passenger and enforce the wearing of seat belts any time a vehicle is in motion. Personnel riding in back of truck or other vehicles is not permitted unless proper restrains(i.e. seatbelts) are provided. Busses provided for Phase 2 Project transportation may be exempt from this requirement, if authorized by PURCHASER in advance of their use.

**39.0 Drug and Alcohol Policy**

- 39.1 PURCHASER Drug and Alcohol policy will be in compliance with the US Federal Department of Transportation regulations concerning pipeline operators and contractors. Drug and Alcohol policy will include:
- 39.2 Pre-employment, Random (up to 50%), For cause and Post Accident Drug screening.
- 39.3 TANK CONTRACTOR shall submit a Phase 2 Project Drug and Alcohol Plan that conforms to the Phase 2 Project Drug and Alcohol program.
- 39.4 TANK CONTRACTOR shall send all drug screening samples to a certified lab.
- 39.5 TANK CONTRACTOR shall submit to the PURCHASER a letter stating all project personnel have complied with the Phase 2 Project Drug and Alcohol policy before site

**APPENDIX B-3**  
**GUIDELINES TO SITE WORK PRACTICES**

The requirements set forth in this Appendix B-3 are guidelines for developing the specific Phase 2 Site work practices for approval by PURCHASER.

- TANK CONTRACTOR shall perform all work in accordance with manufacturer's instruction and any specifications, procedures, drawings and direction supplied.
- TANK CONTRACTOR shall carry out all in-process and final inspection and testing necessary to demonstrate conformance of the completed operations to specified requirements.

***Construction Site Training***

- TANK CONTRACTOR shall ensure that all training required by manufacturer and/or supplier is accomplished prior to performing Work and that documentation attesting to the fact the training has been accomplished shall be available for PURCHASER's review

***Requests for Information***

- TANK CONTRACTOR shall be responsible for submitting a Request For Information (RFI) including appropriate supporting documentation to PURCHASER if the TANK CONTRACTOR is unable to understand the technical documents, discovers or perceives a conflict, ambiguity, error or omission in or among the technical documents or has an alternate/substitute material or method to propose that improves cost or schedule.
- TANK CONTRACTOR shall only enter one subject per RFI; however, an RFI may be identified as applicable to multiple components, systems or commodities.
- TANK CONTRACTOR shall use PURCHASER's RFI form. The TANK CONTRACTOR may use a similar form provided all the key elements of PURCHASER's form are included.

***System and Equipment Safety Tagging/Lockout***

- TANK CONTRACTOR shall directly implement the S&H STANDARDS set forth in Exhibit "B" Appendix B-2, including PURCHASER's Lockout/Tagout Procedure within such Appendix.

***Systems Completion and Turnover***

- TANK CONTRACTOR shall have a logical process for identifying any pending or outstanding Work and for the turnover of the Work, either incrementally or in total, to PURCHASER.

***Control of Punchlist Items***

- TANK CONTRACTOR shall have a process/system for tracking and completing outstanding or incomplete work items (punch list items) identified during final inspections of systems or facilities by the PURCHASER to document acceptance of completed systems or facilities.

***Crane Operator Qualification***

- TANK CONTRACTOR shall provide to PURCHASER evidence that crane operators meet minimum job qualifications including specific physical requirements, and demonstrate the knowledge and practical skills required to safely and proficiently operate the crane(s) and heavy lift equipment to which they are assigned.

Tank Contract

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***Competent Person Rigger Qualification***

- TANK CONTRACTOR shall provide to PURCHASER evidence that all rigger(s) meet minimum job qualifications including demonstrating the knowledge and practical skills required to safely and proficiently execute rigging operations.

***Construction Rigging Work Operations***

- TANK CONTRACTOR shall submit a plan for PURCHASER and Management Contractor approval for heavy hauling and lifting operations in accordance with the specific requirements of their lift category.

***Crane Use and Operations***

- TANK CONTRACTOR is required to have processes and procedures by which they manage the use and operation of cranes on PURCHASER sites. The scope of application includes not only conventional crawler, truck and tower cranes, but also includes alternative lifting devices. Processes to be addressed include: mobilization, commissioning, on-hire inspection, testing, crane operation, maintenance, periodic inspections, safety, record keeping, demobilization & off-hire inspections.
- TANK CONTRACTOR shall not load a crane to more than 100% of the rated chart capacity without prior written approval of the crane manufacturer.
- TANK CONTRACTOR shall following the crane and lifting procedures and safety requirements set forth in applicable codes and standards and the Tank Contract, including Exhibit "B" Appendix B-2.

***Document Control***

- TANK CONTRACTOR shall have written procedure(s) or instruction(s) that establish a system for receipt, control and distribution of design documents. The procedure(s) or instruction(s) shall provide for:
  - a. Verification of actual documents received;
  - b. Maintenance of document control logs or registers for drawings, interim changes, specifications and vendor prints, listing current revision of each document to preclude use of invalid and/or obsolete documents;
  - c. Establish method of identification between controlled and uncontrolled documents; and
  - d. Removal of superseded or voided documents from the work place to assure against unintended use. All obsolete documents retained for legal and/or knowledge-preservation purposes shall be suitably identified.

***Temporary Utilities***

- TANK CONTRACTOR shall submit to PURCHASER for review and approval a temporary facilities plan delineating all temporary facilities and utilities to be installed by the TANK CONTRACTOR. TANK CONTRACTOR shall submit plan(s) to PURCHASER for review and approval not less than 30 Days or as directed by PURCHASER prior to the commencement of Work. PURCHASER will return comments or approval within 15 Days.
- TANK CONTRACTOR shall maintain an up-to-date set of as-built drawings showing the installed location of all temporary utilities. TANK CONTRACTOR shall have said drawings available at the Phase 2 Site for PURCHASER review and shall submit drawing(s) upon completion of temporary utility installation.

***Construction Surveying***

- TANK CONTRACTOR shall establish a method of controlling survey requests from PURCHASER.
- TANK CONTRACTOR shall maintain all equipment in good working order, within calibration and shall field check for accuracy on regular basis.
- TANK CONTRACTOR shall retain all field survey observations, computations and recordings in field books or electronic files including a daily log of survey activities.

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***Storm Water Pollution Prevention Plan***

- TANK CONTRACTOR shall develop dewatering and stormwater / pollution protection plans as required by Project requirements and Applicable Law. TANK CONTRACTOR shall submit plans(s) to PURCHASER for review and approval not less than 30 Days or as directed by PURCHASER prior to the commencement of Work. PURCHASER will return comments or approval within 15 Days.
- TANK CONTRACTOR shall obtain PURCHASER acceptance for construction water sources.

***Concrete Operations***

- TANK CONTRACTOR shall provide evidence of certification for any materials testing laboratory and batch plant used for the Project.
- TANK CONTRACTOR shall obtain PURCHASER acceptance of all TANK CONTRACTOR developed concrete mix designs.
- TANK CONTRACTOR shall use a concrete pre-placement checklist and release record (Pour Card) to document acceptance of commodities such as formwork, line and grade, reinforcing, anchor bolts and other embedded items.
- TANK CONTRACTOR shall maintain all batch plant tickets, inspection and testing records traceable to the concrete placements.
- Where structural steel is to be erected on concrete, the TANK CONTRACTOR shall have field cured cylinders in addition to the laboratory cured cylinders required by the Project design specifications for verification of the design strength.

***Grouting***

- TANK CONTRACTOR shall retain the services of an independent, certified material testing laboratory to perform any required grout testing. TANK CONTRACTOR shall maintain any/all grout testing records. Record shall be traceable to the specific grout placement.

***Structural Steel Erection***

- TANK CONTRACTOR shall have a written steel erection plan that addresses sequencing of work, method of achieving bolt tightness requirements and preassembly plans.

***Electrical Equipment Installation***

- TANK CONTRACTOR shall ensure that electrical equipment is identified and tagged in accordance with Project specifications.

***Raceways and Accessories***

- TANK CONTRACTOR shall utilize a PURCHASER approved raceway schedule that assigns a unique identification number to each raceway and corresponds to design drawings.
- TANK CONTRACTOR shall document Inspection acceptance and release of embedded raceway prior to concrete placements.

***Electrical Cable Installation***

- TANK CONTRACTOR shall utilize a PURCHASER approved cable schedule that assigns a unique identification number to each cable and corresponds to design drawings. The schedule shall include information such as material size and type, from and to links, route vias and service level.
- TANK CONTRACTOR is responsible for ensuring that raceway and cables vias are complete prior to pulling cable.
- Cable pulling lubricants shall be in accordance with cable manufacturer or Project specifications.



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#### ***Cable Terminations***

- TANK CONTRACTOR shall utilize a PURCHASER approved cable termination schedule that uses the assigned unique identification number to each cable and corresponds to design drawings. The schedule shall include information such as material size and type, cable end location (equipment, instrument number, etc.).
- Cable splices shall only be permitted at locations specifically approved by PURCHASER.

#### ***Construction Electrical Testing***

- TANK CONTRACTOR test methods, requirements and acceptance criteria not specified in Project specifications, codes or standards shall be submitted to PURCHASER for review and approval prior to implementation.
- TANK CONTRACTOR shall only perform electrical testing on components, other than cables, that have been released by PURCHASER.

#### ***Instrumentation Installation***

- TANK CONTRACTOR shall blow all pneumatic systems with oil free, dry compressed air prior to final connections.
- TANK CONTRACTOR shall ensure that instruments are calibrated prior to turnover.
- TANK CONTRACTOR ensure that all instruments are properly tagged for easy identification in accordance with Project requirements.

#### ***Instrumentation Testing***

- TANK CONTRACTOR shall ensure that all measuring and testing equipment is calibrated and controlled.
- A calibration sticker indicating the technician's initials shall be applied to all instruments after calibration or pressure testing completion.

#### ***Aboveground Piping Installation***

- TANK CONTRACTOR shall ensure that piping flanges or weld ends are in satisfactory alignment with the equipment flanges or weld ends. Pipe ends, welded or flanged, of connecting pipe shall not be "cold pulled" into position nor shall any undue "pipe stress" be placed on equipment nozzles. Flange bolts at rotating equipment flanges shall be capable of removal by hand without binding, prying or stress when loosened.
- TANK CONTRACTOR shall keep all pipe and equipment openings covered during non-work hours and shall prohibit placement of any materials, tools or components inside of erected piping systems and equipment.

#### ***Pipe Supports***

- TANK CONTRACTOR shall ensure that spring can stops remain in place at the cold load settings until directed to remove stops by PURCHASER.

#### ***Pressure Testing of Piping, Tubing and Components***

- TANK CONTRACTOR shall conduct any field testing of piping using written test procedures. As a minimum, the procedure shall include safety requirements, clear identification of test boundaries, isolation points, system over pressurization protection, and a space to record test results and applicable drawings.

- TANK CONTRACTOR shall have a process to control the pretest preparation and release of systems or components for testing, including confirmation that temporary items (i.e. blinds, temporary piping) are suitable for use at test pressures.
- TANK CONTRACTOR shall have PURCHASER's approval on the test medium and source prior to use.
- TANK CONTRACTOR shall have a test review, inspection and acceptance form that identifies key elements of the pressure test information, test requirements, test gauge pressure calculation, pretest reviews, test results, test equipment, test acceptance and test restoration verification.
- TANK CONTRACTOR shall submit a specific test plan to PURCHASER for review for all pneumatic testing, for high pressure hydrostatic testing, and for testing at ambient temperatures below 40°F (5°C).
- Where equipment is included within the boundaries of a pipe test, the TANK CONTRACTOR shall ensure that the test medium is compatible with the equipment and the equipment maximum allowable pressure or differential pressure is not exceeded.

#### ***Installation of Rotating Equipment***

- TANK CONTRACTOR is responsible for dimensionally checking foundations, embedments and all features interfacing with the equipment being erected/installed. Discrepancies shall be submitted to PURCHASER for disposition using an approved Request for Information form.

#### ***Welding Program***

- TANK CONTRACTOR shall maintain a welding program as required by the applicable code(s) and standard(s). The welding program, as a minimum, shall include:
  1. Documentation of field welding activities
  2. Assignment of welding procedure specifications
  3. Welder qualifications, maintenance and welder identification
  4. Weld heat treatment

#### ***Positive Material Identification***

- TANK CONTRACTOR shall establish and maintain documented procedure(s) defining how positive material identification is to be performed and documented, including equipment, training and/or certification of personnel.
- TANK CONTRACTOR shall submit their positive material identification procedure(s) for approval to PURCHASER not less than 30 Days, or as directed by PURCHASER, prior to the commencement of Work. PURCHASER will return comments or approval within 15 Days,

#### ***Welding & NDE Documentation***

- The following welding related documentation shall be submitted by the TANK CONTRACTOR for review and approval not less than 30 Days, or as directed by PURCHASER, prior to the commencement of Work, PURCHASER will return comments or approval within 15 Days, as applicable to the Scope of Work:
  1. Welding Procedure Specifications (WPSs) and supporting Procedure Qualification Records (PQRs)
  2. Nondestructive Examination (NDE) Procedures
  3. Administrative Welding Procedures including, but not limited to Post Weld Heat Treatment, Filler Metal Control, Welder Qualification and Welding Documentation procedures.
  4. Weld Repair Procedures
- The following welding related documentation shall be submitted by the TANK CONTRACTOR for information only, as applicable, upon completion of the task:
  1. Welder Qualification Records

- 
2. Weld Maps
  3. Material Test Reports
  4. Personnel Qualification Records for NDE
  5. Inspection Records, including Radiography film

#### ***Material Receiving***

- TANK CONTRACTOR shall have a process in place to control and document material and equipment inspection receipt for compliance with technical requirements, including a process to control and for disposition of damaged or nonconforming items. For PURCHASER furnished material or equipment, any discrepancies shall be submitted to PURCHASER for disposition using an approved form.

#### ***Material Withdrawals Request***

- TANK CONTRACTOR shall have a process in place to control material and equipment release for installation, including a process to control the release of nonconforming items.

#### ***Field Material Storage Control***

- TANK CONTRACTOR shall have a program that will ensure that all material and equipment under its jurisdiction/control is maintained in accordance with the manufacturer's recommendation or specified requirements to ensure all warranties remain in effect, and to prevent damage or deterioration of the item.
- TANK CONTRACTOR's program shall identify the particular material and equipment to be maintained, the maintenance operations to be performed, and the frequency of such maintenance operations. Inspections shall be conducted, and documented results of such inspections made to ensure conformance to specified storage requirements.
- All materials and equipment shall be properly maintained by the TANK CONTRACTOR during the performance of the Work to retain identification and not jeopardize its structural, mechanical, or electrical ability to function as designed once installed in its permanent location.
- TANK CONTRACTOR shall have said records available for PURCHASER review.

#### ***Spare Parts***

- For TANK CONTRACTOR furnished material and equipment, TANK CONTRACTOR shall provide a complete inventory of supplied spare parts including quantity, manufacturer and manufacturer part number upon turnover to PURCHASER.

#### ***Control of Measuring and Testing Equipment (M&TE)***

- TANK CONTRACTOR shall ensure that M&TE is calibrated, or checked against, equipment certified to recognized standards at prescribed manufacturer's or Project required intervals. These requirements do not apply to off-the-shelf measuring equipment such as rulers, tape measures, and levels that are not subject to periodic calibration.

#### ***Control of Deficient Items***

- TANK CONTRACTOR shall establish and maintain documented procedure(s) to ensure that deficient items (items that do not confirm to specified requirements) are prevented from unintended use or installation. This control shall provide for identification, evaluation, segregation (when practical), disposition, disposition implementation, re-inspection and closure of nonconforming product and for notification to the functions concerned.

**APPENDIX B-10**  
**LIEN AND CLAIM WAIVER FORMS**

B-10  
Tank Contract

**FORM B-10-1**

**TANK CONTRACTOR'S INTERIM CONDITIONAL LIEN WAIVER**  
(To be executed by both Zachry Construction Corporation and Diamond LNG, LLC  
with each Invoice other than the Final Invoice)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Diamond LNG, LLC ("Diamond") and Zachry Construction Corporation ("Zachry"), as joint and severally liable members of Tank Contractor (hereinafter collectively "Tank Contractor"), have been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the engineering, procurement, construction, commissioning, start-up and testing of improvements known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_ (amount in Invoice submitted with this Tank Contractor's Interim Conditional Lien Waiver), Tank Contractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Tanks and the Property that Tank Contractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Tank Contractor (including, without limitation, any Subcontractor or Sub-subcontractor) in connection with the Phase 2 Tanks through the date of \_\_\_\_\_, 20\_\_ (date of the Invoice submitted with this Tank Contractor's Interim Conditional Lien Waiver) and reserving those rights, privileges and liens, if any, that Tank Contractor might have in respect of any amounts withheld by Owner from payment on account of work, materials, equipment, services and/or labor furnished by or on behalf of Tank Contractor to or on account of Owner for the Phase 2 Tanks. Other exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, Tank Contractor shall be deemed not to have reserved any claim.)

Tank Contractor expressly represents and warrants that all employees, laborers, materialmen, Subcontractors, Sub-subcontractors and subconsultants employed by Tank Contractor in connection with the Phase 2 Tanks have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Tank Contractor's last prior Invoice). Exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, all such payments have been made)

This Tank Contractor's Interim Conditional Lien Waiver is freely and voluntarily given and Tank Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Tank Contractor's Interim Conditional Lien Waiver, that it is fully informed with respect to the legal effect of this Tank Contractor's Interim Conditional Lien Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Tank Contractor's Interim Conditional Lien Waiver in return for the payment recited above.

This Tank Contractor's Interim Conditional Lien Waiver has been executed by its duly authorized representative(s).

**FOR DIAMOND LNG, LLC:**  
Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FOR ZACHRY CONSTRUCTION CORPORATION:**  
Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-10-2**

**TANK CONTRACTOR'S INTERIM UNCONDITIONAL LIEN WAIVER**  
(To be executed by both Zachry Construction Corporation and Diamond LNG, LLC  
with each Invoice other than the Final Invoice)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Diamond LNG, LLC ("Diamond") and Zachry Construction Corporation ("Zachry"), as joint and severally liable members of Tank Contractor (hereinafter collectively "Tank Contractor"), have been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the engineering, procurement, construction, commissioning, start-up and testing of improvements known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Tank Contractor hereby waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Tanks and the Property that Tank Contractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Tank Contractor (including, without limitation, any Subcontractor or Sub-subcontractor) in connection with the Phase 2 Tanks through the date of \_\_\_\_\_, 20\_\_ (date of Tank Contractor's last prior Invoice).

Tank Contractor expressly represents and warrants that all employees, laborers, materialmen, Subcontractors, Sub-subcontractors and subconsultants employed by Tank Contractor in connection with the Phase 2 Tanks have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Tank Contractor's last prior Invoice).

This Tank Contractor's Interim Unconditional Lien Waiver is freely and voluntarily given and Tank Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Tank Contractor's Interim Unconditional Lien Waiver, that it is fully informed with respect to the legal effect of this Tank Contractor's Interim Unconditional Lien Waiver.

This Tank Contractor's Interim Unconditional Lien Waiver has been executed by its duly authorized representative(s).

**FOR DIAMOND LNG, LLC:**  
Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FOR ZACHRY CONSTRUCTION CORPORATION:**  
Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-10-3**

**SUBCONTRACTOR'S INTERIM CONDITIONAL LIEN WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractors  
with each invoice other than the invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor") who has, under an agreement with Diamond LNG, LLC or Zachry Construction Corporation, or both ("Tank Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$\_\_\_\_\_ (amount in invoice submitted with this Subcontractor's Interim Conditional Lien Waiver), Subcontractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Tanks and the Property that Subcontractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Subcontractor (including, without limitation, any sub-subcontractor) in connection with the Phase 2 Tanks through the date of \_\_\_\_\_, 20\_\_ (date of the invoice submitted with this Subcontractor's Interim Conditional Lien Waiver) and reserving those rights, privileges and liens, if any, that Subcontractor might have in respect of any amounts withheld by Tank Contractor from payment on account of work, materials, equipment, services and/or labor furnished by or on behalf of Subcontractor to or on account of Tank Contractor for the Phase 2 Tanks. Other exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, Subcontractor shall be deemed not to have reserved any claim.)

Subcontractor expressly represents and warrants that all employees, laborers, materialmen, Sub-subcontractors and subconsultants employed by Subcontractor in connection with the Phase 2 Tanks have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Subcontractor's last prior invoice). Exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, all such payments have been made)

This Subcontractor's Interim Conditional Lien Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Interim Conditional Lien Waiver, that it is fully informed with respect to the legal effect of this Subcontractor's Interim Conditional Lien Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Subcontractor's Interim Conditional Lien Waiver in return for the payment recited above.

This Subcontractor's Interim Conditional Lien Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR :**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-10-4**

**SUBCONTRACTOR'S INTERIM UNCONDITIONAL LIEN WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractors  
with each invoice other than the invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor") who has, under an agreement with Diamond LNG, LLC or Zachry Construction Corporation, or both ("Tank Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Subcontractor hereby waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Tanks and the Property that Subcontractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Subcontractor (including, without limitation, any Sub-subcontractor) in connection with the Phase 2 Tanks through the date of \_\_\_\_\_, 20\_\_ (date of the last invoice submitted by Subcontractor).

Subcontractor expressly represents and warrants that all employees, laborers, materialmen, Sub-subcontractors and subconsultants employed by Subcontractor in connection with the Phase 2 Tanks have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Subcontractor's last prior invoice).

This Subcontractor's Interim Unconditional Lien Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Interim Unconditional Lien Waiver, and that it is fully informed with respect to the legal effect of this Subcontractor's Interim Unconditional Lien Waiver.

This Subcontractor's Interim Unconditional Lien Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**FORM B-10-5**

**TANK CONTRACTOR'S FINAL CONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by both Zachry Construction Corporation and Diamond LNG, LLC  
with the Final Invoice)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Diamond LNG, LLC ("Diamond") and Zachry Construction Corporation ("Zachry"), as joint and severally liable members of Tank Contractor (hereinafter collectively "Tank Contractor"), have been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the engineering, procurement, construction, commissioning, start-up and testing of improvements known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_ (amount in Final Invoice submitted with this Tank Contractor's Final Conditional Lien and Claim Waiver), Tank Contractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Tanks and the Property, and all claims, demands, actions, causes of actions or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise that Tank Contractor has or may have had against Owner arising out of the Agreement or the Phase 2 Tanks, whether or not known to Tank Contractor at the time of the execution of this Tank Contractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the Agreement, including, without limitation, Warranties and correction of Defective Work, Tank Contractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the Agreement or the Phase 2 Tanks have been fully satisfied.

This Tank Contractor's Final Conditional Lien and Claim Waiver is freely and voluntarily given, and Tank Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Tank Contractor's Final Conditional Lien and Claim Waiver, that it is fully informed with respect to the legal effect of this Tank Contractor's Final Conditional Lien and Claim Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Tank Contractor's Final Conditional Lien and Claim Waiver in return for the payment recited above.

This Tank Contractor's Final Conditional Lien and Claim Waiver has been executed by its duly authorized representative(s).

**FOR DIAMOND LNG, LLC:**

Applicable to Invoice(s) No. ALL

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FOR ZACHRY CONSTRUCTION CORPORATION:**

Applicable to Invoice(s) No. ALL

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-10-6**

**TANK CONTRACTOR'S FINAL UNCONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by both Zachry Construction Corporation and Diamond LNG, LLC  
as a condition of them receiving final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Diamond LNG, LLC ("Diamond") and Zachry Construction Corporation ("Zachry"), as joint and severally liable members of Tank Contractor (hereinafter collectively "Tank Contractor"), have been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the engineering, procurement, construction, commissioning, start-up and testing of improvements known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Tank Contractor has been paid in full for all work, materials, equipment, services and/or labor furnished in connection with the Phase 2 Tanks, and Tank Contractor hereby waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Tanks and the Property, and all claims, demands, actions, causes of actions or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise that Tank Contractor has or may have had against Owner arising out of the Agreement or the Phase 2 Tanks, whether or not known to Tank Contractor at the time of the execution of this Tank Contractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the Agreement, including, without limitation, Warranties and correction of Defective Work, Tank Contractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the Agreement or the Phase 2 Tanks have been fully satisfied, including without limitation payment to Subcontractors and employees and payment of Taxes.

This Tank Contractor's Final Unconditional Lien and Claim Waiver is freely and voluntarily given, and Tank Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Tank Contractor's Final Unconditional Lien and Claim Waiver and that it is fully informed with respect to the legal effect of this Tank Contractor's Final Unconditional Lien and Claim Waiver. Tank Contractor understands, agrees and acknowledges that, upon the execution of this document, this document waives rights unconditionally and is fully enforceable to extinguish all claims of Tank Contractor as of the date of execution of this document by Tank Contractor.

This Tank Contractor's Interim Unconditional Lien Waiver has been executed by its duly authorized representative(s).

**FOR DIAMOND LNG, LLC:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FOR ZACHRY CONSTRUCTION CORPORATION:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-10-7**

**SUBCONTRACTOR'S FINAL CONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractors with their invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor"), has, under an agreement with Diamond LNG, LLC or Zachry Construction Corporation, or both ("Tank Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$\_\_\_\_\_. Subcontractor waives, relinquishes, remits and releases any and all privileges and liens or claims of privileges or liens against the Phase 2 Tanks and the Property, and all claims, demands, actions, causes of action or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise against Cheniere Energy, Inc. or Sabine Pass LNG, L.P. (collectively "Owner") or Tank Contractor, which Subcontractor has, may have had or may have in the future arising out of the agreement between Subcontractor and Contractor or the Phase 2 Tanks, whether or not known to Subcontractor at the time of the execution of this Subcontractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the agreement between Subcontractor and Tank Contractor, including warranties and correction of defective work, Subcontractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the agreement between Tank Contractor and Subcontractor, the Phase 2 Tanks or sub-subcontracts have been fully satisfied.

This Subcontractor's Final Conditional Lien and Claim Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Final Conditional Lien and Claim Waiver, that it is fully informed with respect to the legal effect of this Subcontractor's Final Conditional Lien and Claim Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Subcontractor's Final Conditional Lien and Claim Waiver in return for the payment recited above. Subcontractor understands, agrees and acknowledges that, upon payment, this document waives rights and is fully enforceable to extinguish all claims of Subcontractor as of the date of execution of this document by Subcontractor.

This Subcontractor's Final Conditional Lien and Claim Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR:**

Applicable to Invoice No(s). ALL (If all, print "all")

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-10-8**

**SUBCONTRACTOR'S FINAL UNCONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractor as a condition of them receiving final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor"), has, under an agreement with Diamond LNG, LLC or Zachry Construction Corporation, or both ("Tank Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal (Phase 2) LNG Tanks (the "Phase 2 Tanks"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_ (the "Property").

Subcontractor has been paid in full for all work, materials, equipment, services and/or labor furnished by or on behalf of Subcontractor to or on account of Tank Contractor for the Phase 2 Tanks, and Subcontractor hereby waives, relinquishes, remits and releases any and all privileges and liens or claims of privileges or liens against the Phase 2 Tanks and the Property, and all claims, demands, actions, causes of action or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise against Cheniere Energy, Inc. or Sabine Pass LNG, L.P. (collectively "Owner") or Tank Contractor, which Subcontractor has, may have had or may have in the future arising out of the agreement between Subcontractor and Tank Contractor or the Phase 2 Tanks, whether or not known to Subcontractor at the time of the execution of this Subcontractor's Final Unconditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the agreement between Subcontractor and Tank Contractor, including warranties and correction of defective work, Subcontractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the agreement between Tank Contractor and Subcontractor, the Phase 2 Tanks or sub-subcontracts have been fully satisfied, including, but not limited to payment to sub-subcontractors and employees of Subcontractor and payment of taxes.

This Subcontractor's Final Unconditional Lien and Claim Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Final Unconditional Lien and Claim Waiver, and that it is fully informed with respect to the legal effect of this Subcontractor's Final Unconditional Lien and Claim Waiver. Subcontractor understands, agrees and acknowledges that, upon execution of this document, this document waives rights unconditionally and is fully enforceable to extinguish all claims of Subcontractor as of the date of execution of this document by Subcontractor.

This Subcontractor's Final Unconditional Lien and Claim Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR:**

Applicable to Invoice No(s). ALL

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX B-15**  
**FORM OF LETTER OF CREDIT**

[to be issued on letterhead of Issuing Bank]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_

DATE: [\_\_\_\_\_]

AMOUNT OF: U.S.\$ [\_\_\_\_\_]

**BENEFICIARY:**

SABINE PASS LNG, L.P.

717 TEXAS AVENUE

SUITE 3100

HOUSTON, TEXAS 77002

FACSIMILE: (713) 659-5459

ATTN: [\_\_\_\_\_]

**APPLICANT AND ACCOUNT PARTY:**

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_, \_\_\_\_\_]

FACSIMILE: [\_\_\_\_\_]

ATTN: [\_\_\_\_\_]

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (THIS “**LETTER OF CREDIT**”) IN FAVOR OF SABINE PASS LNG, L.P., AS BENEFICIARY, FOR AN INITIAL AMOUNT OF [\_\_\_\_\_] U.S. DOLLARS (\$[\_\_\_\_\_] (THE “**STATED AMOUNT**”) AT THE REQUEST AND FOR THE ACCOUNT OF [\_\_\_\_\_] AS APPLICANT.

WE ARE INFORMED THAT THIS LETTER OF CREDIT IS ISSUED ON BEHALF OF THE APPLICANT TO SUPPORT [APPLICANT’S] OBLIGATIONS UNDER THAT CERTAIN LUMP SUM SABINE PASS LNG PROJECT (PHASE 2) ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT, DATED AS OF [\_\_\_\_\_] 2006, BY AND BETWEEN [APPLICANT] AND BENEFICIARY (AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE “**AGREEMENT**”).

FUNDS UNDER THIS LETTER OF CREDIT ARE AVAILABLE BY PAYMENT AGAINST THE PRESENTATION OF YOUR DRAFT(S) DRAWN ON [INSERT **ISSUING BANK’S NAME AND ADDRESS**] (THE “**ISSUING BANK**”) IN THE FORM OF ANNEX I ATTACHED HERETO AND ACCOMPANIED BY A DRAWING CERTIFICATE DULY SIGNED IN THE FORM OF ANNEX II OR ANNEX V ATTACHED HERETO APPROPRIATELY COMPLETED.

PARTIAL DRAWINGS ARE PERMITTED. ALL BANKING CHARGES UNDER THIS LETTER OF CREDIT ARE FOR ACCOUNT OF THE APPLICANT.

THIS LETTER OF CREDIT IS TRANSFERABLE IN ITS ENTIRETY AND NOT IN PART, UPON NOTICE BY BENEFICIARY TO ISSUER HEREUNDER, IN THE FORM OF ANNEX III ATTACHED HERETO APPROPRIATELY COMPLETED; PROVIDED, HOWEVER, THAT THIS LETTER OF CREDIT MAY NOT BE TRANSFERRED TO ANY PERSON IF SUCH TRANSFER TO, OR DRAWING UNDER THIS LETTER OF CREDIT BY, SUCH PERSON WOULD BE PROHIBITED OR BLOCKED UNDER ANY U.S. EXECUTIVE ORDER, LAW OR ANY RULE OR REGULATION OF THE OFFICE OF FOREIGN ASSETS CONTROL OF THE U.S. TREASURY DEPARTMENT OR THE U.S. COMMERCE DEPARTMENT, AND ANY ATTEMPTED TRANSFER WHICH VIOLATES THIS PROVISION SHALL BE NULL AND VOID.

THE STATED AMOUNT SHALL BE AUTOMATICALLY AND PERMANENTLY REDUCED BY THE AMOUNT OF ANY DRAWING HONORED BY US UNDER THIS LETTER OF CREDIT [INSERT ENTIRE LETTER OF CREDIT REFERENCE, ALL NUMBERS AND LETTERS].

Tank Contract  
Appendix B-15

ALL DEMANDS FOR PAYMENT SHALL BE PRESENTED TO THE ISSUING BANK LOCATED AT [INSERT ISSUING BANK'S NAME AND ADDRESS], DURING ITS BUSINESS HOURS ON ANY BUSINESS DAY.

THIS LETTER OF CREDIT SHALL EXPIRE ON [\_\_\_\_\_] 200[\_\_\_] BUT SUCH EXPIRATION DATE SHALL BE AUTOMATICALLY EXTENDED FOR A PERIOD OF ONE YEAR ON [\_\_\_\_\_] 200[\_\_\_], AND ON EACH SUCCESSIVE EXPIRATION DATE THEREAFTER, UNLESS (A) AT LEAST 120 CALENDAR DAYS BEFORE THE THEN CURRENT EXPIRATION DATE WE NOTIFY THE BENEFICIARY, BY CERTIFIED MAIL OR OVERNIGHT COURIER, AT ITS ADDRESS SET FORTH ABOVE, THAT WE HAVE DECIDED NOT TO EXTEND THIS LETTER OF CREDIT BEYOND THE THEN CURRENT EXPIRATION DATE, OR (B) BEFORE THE THEN CURRENT EXPIRATION DATE, BENEFICIARY PROVIDES WRITTEN NOTICE TO US IN THE FORM OF ANNEX IV. IN THE EVENT BENEFICIARY IS SO NOTIFIED BY US PURSUANT TO CLAUSE (A) OF THE IMMEDIATELY PRECEDING SENTENCE, ANY UNUSED PORTION OF THIS LETTER OF CREDIT SHALL BE IMMEDIATELY AVAILABLE FOR PAYMENT TO BENEFICIARY UPON BENEFICIARY'S PRESENTMENT OF DRAFTS DRAWN AT SIGHT IN THE FORM OF ANNEX I AND ANNEX V ATTACHED HERETO APPROPRIATELY COMPLETED NO EARLIER THAN THIRTY (30) CALENDAR DAYS PRIOR TO THE THEN CURRENT EXPIRATION DATE.

IF WE RECEIVE YOUR DRAFT AND DRAWING CERTIFICATE IN FULL COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT ON A BUSINESS DAY ON OR PRIOR TO THE EXPIRATION DATE, WE WILL HONOR YOUR DEMAND FOR PAYMENT ON THE NEXT FOLLOWING BUSINESS DAY. "**BUSINESS DAY**" MEANS ANY DAY OTHER THAN A SATURDAY, A SUNDAY OR ANY OTHER DAY COMMERCIAL BANKS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED TO BE CLOSED, AND A DAY ON WHICH PAYMENTS CAN BE EFFECTED ON THE FEDWIRE SYSTEM.

IF A DEMAND FOR PAYMENT MADE BY BENEFICIARY HEREUNDER DOES NOT, IN ANY INSTANCE, CONFORM TO THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, THE ISSUER SHALL GIVE BENEFICIARY PROMPT NOTICE THAT THE DEMAND FOR PAYMENT WAS NOT EFFECTED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, STATING THE REASONS THEREFORE AND THAT THE ISSUER WILL HOLD ANY DOCUMENTS AT BENEFICIARY'S DISPOSAL OR UPON BENEFICIARY'S INSTRUCTIONS RETURN THE SAME TO BENEFICIARY. UPON BEING NOTIFIED THAT THE DEMAND FOR PAYMENT WAS NOT EFFECTED IN CONFORMITY WITH THIS LETTER OF CREDIT, BENEFICIARY MAY ATTEMPT TO CORRECT ANY SUCH NON-CONFORMING DEMAND FOR PAYMENT TO THE EXTENT IN WHICH BENEFICIARY IS ABLE TO DO SO WITHIN THE CURRENT EXPIRATION DATE.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES ("ISP98"), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590, AND AS TO ANY MATTERS NOT SPECIFICALLY COVERED THEREBY, THIS LETTER OF CREDIT SHALL BE GOVERNED BY THE LAWS OF TEXAS.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING AND SUCH UNDERTAKING SHALL NOT IN ANY WAY BE MODIFIED OR AMPLIFIED BY REFERENCE TO ANY DOCUMENT, INSTRUMENT, OR AGREEMENT REFERRED TO HEREIN OTHER THAN THE ISP98.

***[SIGNATURE PAGE TO FOLLOW]***

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[NAME OF ISSUING U.S. BANK]

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

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ANNEX I

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER \_\_\_\_\_

DRAFT

\_\_\_\_\_, 20\_\_

PAY TO ORDER OF OURSELVES \_\_\_\_\_ AND \_\_\_\_\_/100 U.S. DOLLARS (U.S.\$ \_\_\_\_\_). THIS DRAFT IS PRESENTED UNDER  
IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ DATED \_\_\_\_\_, ISSUED FOR THE ACCOUNT OF [\_\_\_\_\_ **fill in Applicant Name here** \_\_\_\_\_].

TO: [ISSUING BANK NAME]  
[ISSUING BANK ADDRESS]

**SABINE PASS LNG, L.P.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



ANNEX II

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER \_\_\_\_\_

DRAWING CERTIFICATE

TO: [ISSUING BANK NAME]  
[ISSUING BANK ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_

GENTLEMEN:

REFERENCE IS MADE TO THAT CERTAIN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (THE "**LETTER OF CREDIT**") ISSUED BY YOU IN FAVOR OF SABINE PASS LNG, L.P. ("**BENEFICIARY**").

IN ACCORDANCE WITH THAT CERTAIN LUMP SUM SABINE PASS LNG PROJECT (PHASE 2) ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT, DATED AS OF [\_\_\_\_], 2006, BY AND BETWEEN BENEFICIARY AND [\_\_\_\_] ("**APPLICANT**") (AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "**AGREEMENT**"), THE UNDERSIGNED, AN AUTHORIZED OFFICER OF BENEFICIARY, DOES HEREBY CERTIFY THAT:

1. CHECK APPLICABLE PROVISION:

- \_\_\_\_\_ [APPLICANT] OWES BENEFICIARY LIQUIDATED DAMAGES IN ACCORDANCE WITH THE AGREEMENT, OR
- \_\_\_\_\_ [APPLICANT] OWES BENEFICIARY ANY OTHER LIABILITIES, DAMAGES, LOSSES, COSTS OR EXPENSES ARISING OUT OF OR RELATING TO A BREACH OF ANY OBLIGATION UNDER THE AGREEMENT OR A DEFAULT, AND [APPLICANT] HAS FAILED TO PAY SAME TO BENEFICIARY WITHIN TEN (10) DAYS FOLLOWING WRITTEN DEMAND FOR PAYMENT BY BENEFICIARY; AND

2. BENEFICIARY IS ENTITLED TO PAYMENT OF U.S.\$[\_\_\_\_\_].

YOU ARE REQUESTED TO REMIT PAYMENT OF THIS DRAWING IN IMMEDIATELY AVAILABLE FUNDS BY WIRE TRANSFER TO THE FOLLOWING ACCOUNT:

[ACCOUNT INFORMATION]

IN WITNESS WHEREOF, THE UNDERSIGNED HAS EXECUTED AND DELIVERED THIS CERTIFICATE AS OF THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

**SABINE PASS LNG, L.P.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ANNEX III

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER \_\_\_\_\_

FORM OF TRANSFER NOTICE

DATE: \_\_\_\_\_

TO: **[ISSUING BANK]**  
**[ISSUING BANK ADDRESS]**

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_

GENTLEMEN:

FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY IRREVOCABLY TRANSFERS TO:

\_\_\_\_\_  
NAME OF TRANSFEREE

\_\_\_\_\_  
ADDRESS

ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY TO DRAW UNDER THE ABOVE LETTER OF CREDIT IN ITS ENTIRETY.

BY THIS TRANSFER, ALL RIGHTS OF THE UNDERSIGNED BENEFICIARY IN SUCH LETTER OF CREDIT ARE TRANSFERRED TO THE TRANSFEREE AND THE TRANSFEREE SHALL HAVE THE SOLE RIGHTS AS BENEFICIARY THEREOF, INCLUDING SOLE RIGHTS RELATING TO ANY AMENDMENTS WHETHER INCREASES OR EXTENSIONS OR OTHER AMENDMENTS AND WHETHER NOW EXISTING OR HEREAFTER MADE. ALL AMENDMENTS ARE TO BE ADVISED TO DIRECT TO THE TRANSFEREE WITHOUT NECESSITY OF ANY CONSENT OF OR NOTICE TO THE UNDERSIGNED BENEFICIARY.

THE ORIGINAL OF SUCH LETTER OF CREDIT IS RETURNED HERewith, AND WE ASK YOU TO ENDORSE THE TRANSFER ON THE REVERSE HEREOF, AND FORWARD IT DIRECT TO THE TRANSFEREE WITH YOUR CUSTOMARY NOTICE OF TRANSFER.

ENCLOSED IS REMITTANCE OF U.S.\$[\_\_\_\_\_] VIA CERTIFIED CHECK IN PAYMENT OF YOUR TRANSFER COMMISSION AND IN ADDITION THERETO WE AGREE TO PAY TO YOU ON DEMAND ANY EXPENSES WHICH MAY BE INCURRED BY YOU IN CONNECTION WITH THIS TRANSFER.

The signature and title at the right conform with those shown in our files as authorized to sign for the beneficiary. Policies governing signature authorization as required for withdrawals from customer accounts shall also be applied to the authorization of signatures on this form. The authorization of the Beneficiary's signature and title on this form also acts to certify that the authorizing financial institution (i) is regulated by a U.S. federal banking agency; (ii) has implemented anti-money laundering policies and procedures that comply with applicable requirements of law, including a Customer Identification Program (CIP) in accordance with Section 326 of the USA PATRIOT Act; (iii) has approved the Beneficiary under its anti-money laundering compliance program; and (iv) acknowledges that Bank of America, N.A. is relying on the foregoing certifications pursuant to 31 C.F.R. Section 103.121 (b)(6)."

NAME OF BANK

AUTHORIZED SIGNATURE AND TITLE

PHONE NUMBER

NAME OF TRANSFEROR

NAME OF AUTHORIZED SIGNER AND TITLE

AUTHORIZED SIGNATURE

(a) FOR BANK USE ONLY

Confirmation of Authenticating Bank's signature performed by:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.

Addl Info.: \_\_\_\_\_

ANNEX IV

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER \_\_\_\_\_  
FORM OF NOTICE OF ISSUANCE OF FINAL ACCEPTANCE CERTIFICATE  
OR EXPIRATION OF TERM OF AGREEMENT

DATE: \_\_\_\_\_

TO: [ISSUING BANK NAME]  
[ISSUING BANK ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_

GENTLEMEN:

REFERENCE IS MADE TO THAT CERTAIN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (THE "**LETTER OF CREDIT**") ISSUED BY YOU IN FAVOR OF SABINE PASS LNG, L.P. ("**BENEFICIARY**").

IN ACCORDANCE WITH THE TERMS OF LETTER OF CREDIT, BENEFICIARY HEREBY NOTIFIES YOU OF (A) THAT BENEFICIARY HAS ISSUED A "FINAL ACCEPTANCE CERTIFICATE" TO APPLICANT OR (B) THE EXPIRATION OF THE TERM OF THE LUMP SUM SABINE PASS LNG PROJECT (PHASE 2) ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT, DATED AS OF [\_\_\_\_], 2006 BY AND BETWEEN BENEFICIARY AND DIAMOND LNG LLC AND ZACHRY CONSTRUCTION CORPORATION, JOINTLY AND SEVERALLY, (AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME).

THE UNDERSIGNED HEREBY REQUESTS TERMINATION OF THIS LETTER OF CREDIT AND CONFIRMATION TO APPLICANT OF SAID TERMINATION.

THE LETTER OF CREDIT SHALL EXPIRE ON [\_\_\_\_], 20[\_\_\_\_].

**SABINE PASS LNG, L.P.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ANNEX V

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER \_\_\_\_\_

DRAWING CERTIFICATE

\_\_\_\_\_, 20\_\_

TO: [ISSUING BANK NAME]  
[ISSUING BANK ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_

GENTLEMEN:

REFERENCE IS MADE TO THAT CERTAIN IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ (THE "**LETTER OF CREDIT**") ISSUED BY YOU IN FAVOR OF SABINE PASS LNG, L.P. ("**BENEFICIARY**").

IN ACCORDANCE WITH THAT CERTAIN LUMP SUM SABINE PASS LNG PROJECT (PHASE 2) ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT DATED AS OF [\_\_\_\_\_] , BY AND BETWEEN BENEFICIARY AND [\_\_\_\_\_] ("**APPLICANT**") (AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "**AGREEMENT**"), THE UNDERSIGNED, AN AUTHORIZED OFFICER OF BENEFICIARY, DOES HEREBY CERTIFY THAT:

1. BENEFICIARY HAS BEEN NOTIFIED THAT YOU HAVE DECIDED NOT TO EXTEND THE LETTER OF CREDIT BEYOND THE CURRENT EXPIRATION DATE;

2. [APPLICANT] HAS NOT DELIVERED TO BENEFICIARY A REPLACEMENT LETTER OF CREDIT SUBSTANTIALLY IDENTICAL TO THE LETTER OF CREDIT (I.E., IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_) FROM A COMMERCIAL BANK IN THE UNITED STATES OF AMERICA RATED AT LEAST A- BY STANDARD & POOR'S AND AT LEAST A3 BY MOODY'S INVESTORS SERVICES, AND THIRTY (30) OR LESS CALENDAR DAYS REMAIN BEFORE THE EXPIRATION OF THE CURRENT EXPIRATION DATE; AND

3. BENEFICIARY IS ENTITLED TO PAYMENT OF U.S.\$[\_\_\_\_\_].

YOU ARE REQUESTED TO REMIT PAYMENT OF THIS DRAWING IN IMMEDIATELY AVAILABLE FUNDS BY WIRE TRANSFER TO THE FOLLOWING ACCOUNT:

[ACCOUNT INFORMATION]

IN WITNESS WHEREOF, THE UNDERSIGNED HAS EXECUTED AND DELIVERED THIS CERTIFICATE AS OF THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

**SABINE PASS LNG, L.P.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SABINE PASS LNG TERMINAL PROJECT (PHASE 2)

EXHIBIT “C”

ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT

QUANTITIES, PRICING AND DATA

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Exhibit C  
Tank Contract

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1.0 TANK CONTRACT PRICE

- 1.1 The Tank Contract Price is ONE HUNDRED THIRTY NINE MILLION EIGHTY SIX THOUSAND TWO HUNDRED NINETY THREE and NO CENTS (\$139,086,293).
- 1.2 The Tank Contract Price is subject to adjustment only by a Change Order issued in accordance with GC-32 and includes all Taxes payable by Tank Contractor and its Subcontractors and Subsubcontractors in connection with the Work, the Louisiana Sales and Use Tax Allowance, the Labor Compensation Allowance, an allowance for Permits as set forth in GC-8, and costs, charges and expenses of whatever nature necessary for performance of the Work.
- 1.3 Set forth in Appendices C-2 and C-3 are preliminary payment flow charts (cash curves) for Tank Contractor.

2.0 ADJUSTMENT FOR 9% NICKEL STEEL MATERIALS

- 2.1 The Tank Contract Price shall be subject to an [upward or downward] adjustment by Change Order for changes in commodity pricing of 9% nickel steel as set forth in Appendix C-1.

3.0 ADJUSTMENT FOR WAGES

- 3.1 The Tank Contract Price shall be subject to an upward adjustment for changes in Field Labor Rates and Compensation in accordance with SC-45.

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APPENDIX C-1  
9% NICKEL STEEL MATERIALS ADJUSTMENT

The Tank Contract Price shall be subject to an [upward or downward] adjustment by Change Order for changes in commodity pricing of 9% nickel steel as follows:

1.0 The date for determining the adjustment for 9% nickel steel shall be the “Exercise Date”, which is the day that PURCHASER gives TANK CONTRACTOR written notice that PURCHASER wants to set the date for determining the 9% nickel steel adjustment.

The Exercise Date shall be no later than September 30, 2006.

2.0 Adjustment for 9% Nickel Steel Material (“9Ni adj”):

$$9 \text{ Ni adj} = [3,130 \text{ ton} \times 0.09 \times (N_1 - 21,000)] \times 1.014$$

Where:

“ $N_1$ ” is the 3-month bid price of nickel (in U.S.\$/metric ton), as published in the Wall Street Journal on the day of the Exercise Date.

“21,000” is the 3-month bid price of nickel (in U.S.\$/metric ton), as published in the Wall Street Journal on June 8, 2006.

“1.014” is based on TANK CONTRACTOR’S procurement management charge for the 9% nickel.



APPENDIX C-2  
Preliminary Payment Flow Diamond Only

Month	Incremental Gross Percentage	Incremental Gross Payment	Cumulative Gross Percentage	Cumulative Gross Payment	Retainage	Incremental Net Payment	Cumulative Net Payment
Apr-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —
May-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —
Jun-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —
Jul-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —
Aug-06	5.00%	\$ 2,733,993	5.00%	\$ 2,733,993	\$ 136,700	\$ 2,597,293	\$ 2,597,293
Sep-06	8.40%	\$ 4,591,127	13.40%	\$ 7,325,119	\$ 229,556	\$ 4,361,570	\$ 6,958,863
Oct-06	0.80%	\$ 440,166	14.20%	\$ 7,765,286	\$ 22,008	\$ 418,158	\$ 7,377,022
Nov-06	0.67%	\$ 367,589	14.87%	\$ 8,132,875	\$ 18,379	\$ 349,210	\$ 7,726,231
Dec-06	1.31%	\$ 714,179	16.18%	\$ 8,847,054	\$ 35,709	\$ 678,470	\$ 8,404,702
Jan-07	1.10%	\$ 601,862	17.28%	\$ 9,448,916	\$ 30,093	\$ 571,768	\$ 8,976,470
Feb-07	3.38%	\$ 1,848,538	20.66%	\$11,297,453	\$ 92,427	\$ 1,756,111	\$10,732,581
Mar-07	4.79%	\$ 2,620,868	25.45%	\$13,918,321	\$ 131,043	\$ 2,489,824	\$13,222,405
Apr-07	4.36%	\$ 2,383,642	29.81%	\$16,301,963	\$ 119,182	\$ 2,264,459	\$15,486,864
May-07	3.99%	\$ 2,180,299	33.80%	\$18,482,261	\$ 109,015	\$ 2,071,284	\$17,558,148
Jun-07	2.39%	\$ 1,306,672	36.19%	\$19,788,933	\$ 65,334	\$ 1,241,338	\$18,799,486
Jul-07	2.57%	\$ 1,404,921	38.76%	\$21,193,854	\$ 70,246	\$ 1,334,675	\$20,134,162
Aug-07	3.97%	\$ 2,169,327	42.73%	\$23,363,181	\$ 108,466	\$ 2,060,860	\$22,195,022
Sep-07	2.97%	\$ 1,622,903	45.70%	\$24,986,084	\$ 81,145	\$ 1,541,758	\$23,736,780
Oct-07	5.57%	\$ 3,046,375	51.27%	\$28,032,460	\$ 152,319	\$ 2,894,057	\$26,630,837
Nov-07	5.85%	\$ 3,198,635	57.12%	\$31,231,095	\$ 159,932	\$ 3,038,704	\$29,669,540
Dec-07	5.84%	\$ 3,193,475	62.96%	\$34,424,570	\$ 159,674	\$ 3,033,801	\$32,703,341
Jan-08	7.32%	\$ 4,004,572	70.28%	\$38,429,142	\$ 200,229	\$ 3,804,343	\$36,507,685
Feb-08	8.15%	\$ 4,456,790	78.43%	\$42,885,932	\$ 222,840	\$ 4,233,951	\$40,741,635
Mar-08	5.00%	\$ 2,731,750	83.43%	\$45,617,682	\$ 136,588	\$ 2,595,163	\$43,336,798
Apr-08	1.84%	\$ 1,005,253	85.27%	\$46,622,935	\$ 50,263	\$ 954,990	\$44,291,788
May-08	2.05%	\$ 1,118,832	87.31%	\$47,741,767	\$ 55,942	\$ 1,062,890	\$45,354,678
Jun-08	1.33%	\$ 727,413	88.64%	\$48,469,180	\$ 36,371	\$ 691,043	\$46,045,721
Jul-08	0.64%	\$ 348,835	89.28%	\$48,818,015	\$ 17,442	\$ 331,393	\$46,377,114
Aug-08	0.82%	\$ 446,302	90.10%	\$49,264,317	\$ 22,315	\$ 423,987	\$46,801,102
Sep-08	1.97%	\$ 1,079,226	92.07%	\$50,343,543	\$ 53,961	\$ 1,025,264	\$47,826,366
Oct-08	1.74%	\$ 952,047	93.81%	\$51,295,590	\$ 47,602	\$ 904,445	\$48,730,811
Nov-08	1.26%	\$ 689,615	95.07%	\$51,985,205	\$ 34,481	\$ 655,134	\$49,385,945
Dec-08	1.01%	\$ 552,084	96.08%	\$52,537,289	\$ 27,604	\$ 524,480	\$49,910,425
Jan-09	1.00%	\$ 547,647	97.08%	\$53,084,936	\$ 27,382	\$ 520,265	\$50,430,690
Feb-09	0.99%	\$ 542,434	98.08%	\$53,627,370	\$ 27,122	\$ 515,312	\$50,946,002
Mar-09	0.98%	\$ 537,176	99.06%	\$54,164,546	\$ 26,859	\$ 510,317	\$51,456,318
Apr-09	0.94%	\$ 515,297	100.00%	\$54,679,844	\$ 25,765	\$ 489,533	\$51,945,852
May-09	0.00%	\$ —	100.00%	\$54,679,844	\$ —	\$ —	\$54,679,844
Jun-09	0.00%	\$ —	100.00%	\$54,679,844	\$ —	\$ —	\$54,679,844
Jul-09	0.00%	\$ —	100.00%	\$54,679,844	\$ —	\$ 2,733,992	\$54,679,844
Aug-09	0.00%	\$ —	100.00%	\$54,679,844	\$ —	\$ —	\$54,679,844
Sep-09	0.00%	\$ —	100.00%	\$54,679,844	\$ —	\$ —	\$54,679,844
		<u>\$54,679,844</u>			<u>\$ 2,733,992</u>		

Total Retainage

APPENDIX C-3  
Preliminary Payment Flow Zachry Only

	Incremental		Cumulative					
Month	Gross Percentage	Incremental Gross Payment	Gross Percentage	Cumulative Gross Payment	Retainage	Incremental Net Payment	Cumulative Net Payment	
Apr-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —	\$ —
May-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —	\$ —
Jun-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —	\$ —
Jul-06	0.00%	\$ —	0.00%	\$ —	\$ —	\$ —	\$ —	\$ —
Aug-06	5.00%	\$ 3,970,322	5.00%	\$ 3,970,322	\$ 198,516	\$ 3,771,806	\$ 3,771,806	
Sep-06	1.17%	\$ 931,853	6.17%	\$ 4,902,175	\$ 46,593	\$ 885,260	\$ 4,657,066	
Oct-06	1.08%	\$ 859,758	7.26%	\$ 5,761,933	\$ 42,988	\$ 816,770	\$ 5,473,836	
Nov-06	2.91%	\$ 2,308,615	10.16%	\$ 8,070,547	\$ 115,431	\$ 2,193,184	\$ 7,667,020	
Dec-06	5.54%	\$ 4,397,766	15.70%	\$ 12,468,313	\$ 219,888	\$ 4,177,878	\$ 11,844,898	
Jan-07	4.53%	\$ 3,595,408	20.23%	\$ 16,063,722	\$ 179,770	\$ 3,415,638	\$ 15,260,536	
Feb-07	1.54%	\$ 1,220,078	21.77%	\$ 17,283,800	\$ 61,004	\$ 1,159,075	\$ 16,419,610	
Mar-07	2.40%	\$ 1,909,540	24.17%	\$ 19,193,340	\$ 95,477	\$ 1,814,063	\$ 18,233,673	
Apr-07	1.41%	\$ 1,116,419	25.58%	\$ 20,309,759	\$ 55,821	\$ 1,060,598	\$ 19,294,271	
May-07	1.63%	\$ 1,297,874	27.21%	\$ 21,607,634	\$ 64,894	\$ 1,232,981	\$ 20,527,252	
Jun-07	2.09%	\$ 1,661,329	29.30%	\$ 23,268,963	\$ 83,066	\$ 1,578,263	\$ 22,105,515	
Jul-07	2.47%	\$ 1,958,555	31.77%	\$ 25,227,518	\$ 97,928	\$ 1,860,627	\$ 23,966,142	
Aug-07	2.44%	\$ 1,933,991	34.21%	\$ 27,161,509	\$ 96,700	\$ 1,837,292	\$ 25,803,434	
Sep-07	3.88%	\$ 3,079,066	38.08%	\$ 30,240,575	\$ 153,953	\$ 2,925,113	\$ 28,728,547	
Oct-07	4.22%	\$ 3,349,844	42.30%	\$ 33,590,420	\$ 167,492	\$ 3,182,352	\$ 31,910,899	
Nov-07	4.78%	\$ 3,791,665	47.08%	\$ 37,382,085	\$ 189,583	\$ 3,602,082	\$ 35,512,981	
Dec-07	4.31%	\$ 3,425,220	51.39%	\$ 40,807,305	\$ 171,261	\$ 3,253,959	\$ 38,766,940	
Jan-08	3.24%	\$ 2,568,830	54.63%	\$ 43,376,134	\$ 128,441	\$ 2,440,388	\$ 41,207,328	
Feb-08	4.29%	\$ 3,406,594	58.92%	\$ 46,782,728	\$ 170,330	\$ 3,236,264	\$ 44,443,592	
Mar-08	4.73%	\$ 3,757,245	63.65%	\$ 50,539,973	\$ 187,862	\$ 3,569,383	\$ 48,012,975	
Apr-08	3.47%	\$ 2,758,349	67.12%	\$ 53,298,323	\$ 137,917	\$ 2,620,432	\$ 50,633,407	
May-08	4.77%	\$ 3,783,970	71.89%	\$ 57,082,293	\$ 189,198	\$ 3,594,771	\$ 54,228,178	
Jun-08	5.30%	\$ 4,205,190	77.18%	\$ 61,287,482	\$ 210,259	\$ 3,994,930	\$ 58,223,108	
Jul-08	4.29%	\$ 3,404,891	81.47%	\$ 64,692,373	\$ 170,245	\$ 3,234,646	\$ 61,457,754	
Aug-08	3.98%	\$ 3,159,478	85.45%	\$ 67,851,851	\$ 157,974	\$ 3,001,504	\$ 64,459,258	
Sep-08	2.29%	\$ 1,817,790	87.74%	\$ 69,669,640	\$ 90,889	\$ 1,726,900	\$ 66,186,158	
Oct-08	2.00%	\$ 1,590,491	89.74%	\$ 71,260,132	\$ 79,525	\$ 1,510,967	\$ 67,697,125	
Nov-08	1.63%	\$ 1,290,837	91.37%	\$ 72,550,969	\$ 64,542	\$ 1,226,296	\$ 68,923,421	
Dec-08	1.35%	\$ 1,071,377	92.72%	\$ 73,622,346	\$ 53,569	\$ 1,017,808	\$ 69,941,229	
Jan-09	1.98%	\$ 1,573,386	94.70%	\$ 75,195,732	\$ 78,669	\$ 1,494,716	\$ 71,435,945	
Feb-09	1.74%	\$ 1,384,624	96.44%	\$ 76,580,355	\$ 69,231	\$ 1,315,392	\$ 72,751,337	
Mar-09	1.53%	\$ 1,213,092	97.97%	\$ 77,793,447	\$ 60,655	\$ 1,152,437	\$ 73,903,775	
Apr-09	0.95%	\$ 754,885	98.92%	\$ 78,548,332	\$ 37,744	\$ 717,141	\$ 74,620,915	
May-09	0.67%	\$ 531,549	99.59%	\$ 79,079,881	\$ 26,577	\$ 504,971	\$ 75,125,887	
Jun-09	0.41%	\$ 326,568	100.00%	\$ 79,406,449	\$ 16,328	\$ 310,240	\$ 75,436,127	
Jul-09	0.00%	\$ —	100.00%	\$ 79,406,449	\$ —	\$ 3,970,322	\$ 79,406,449	
Aug-09	0.00%	\$ —	100.00%	\$ 79,406,449	\$ —	\$ —	\$ 79,406,449	
Sep-09	0.00%	\$ —	100.00%	\$ 79,406,449	\$ —	\$ —	\$ 79,406,449	
		\$79,406,449			\$ 3,970,322		\$79,406,449	
					Total Retainage			
WAGE RATE ALLOWANCE		\$ 5,000,000						
TOTAL CONTRACT PRICE		\$84,406,449						

		EXHIBIT "D"			
		FOR			
		PHASE 2 LNG TANKS			
003	7/17/06	K&S Revisions			
002	10/28/05	REVISED AS NOTED		TW	GGG
001	06 May 05	REVISED WHERE NOTED, ISSUED FOR CONTRACT		GGG	
000		ISSUED FOR SUBCONTRACT		GGG	
NO	DATE	REASON FOR REVISION		BY	CK'D APPR APPR
		EXHIBIT "D"		JOB NO.	
		FOR		REV	
		LNG TANKS			
		SP LNG PHASE 2 EXPANSION TERMINAL		003	
		PROJECT			

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**LNG STORAGE TANKS**  
**SABINE PASS LNG PROJECT PHASE 2, SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

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**ATTACHMENTS**

ATTACHMENT I	PROJECT SPECIFICATIONS
ATTACHMENT II	DRAWING AND DATA REQUIREMENTS
ATTACHMENT III	INSPECTION AND TESTING REQUIREMENTS

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**LNG STORAGE TANKS  
SP LNG PROJECT, SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**1.0 DESCRIPTION OF WORK - GENERAL**

The intent of this Exhibit “D” is to provide TANK CONTRACTOR with a general outline of its expected Scope of Work. TANK CONTRACTOR shall examine all the Tank Contract Documents including all drawings, specifications and other referenced documents to determine the full extent of the Work.

The scope of work (herein called the “Scope of Work” or the “Work”) for this Tank Contract generally includes all necessary engineering design, procurement of materials and equipment, fabrication, delivery, erection, installation, testing and pre-commissioning of two (or three if PURCHASER exercises Option 1) 160,000 cubic meter net capacity (Cold), above ground, single containment, LNG storage tank(s) at the Phase 2 Facility, Sabine Pass, Louisiana.

TANK CONTRACTOR shall maintain close communications and coordination with PURCHASER during all phases of engineering design, procurement and construction.

**2.0 SCOPE OF WORK - ENGINEERING and PROCUREMENT**

**2.1 General**

TANK CONTRACTOR shall perform all the detailed engineering design and procurement of all necessary materials and equipment required to ensure that the LNG tanks will be safe, functional, fully operational and in compliance with API 620 (10th Edition, 2004 Addendum) and NFPA 59A (2001) codes, Project Specifications, and GECP. Design and purchased components will include but not necessarily be limited to: tank foundation, single containment tanks, associated equipment and structures, piping, tank insulation, instrumentation and electrical systems.

TANK CONTRACTOR’s Work, unless specified otherwise herein, shall extend to its “Battery Limits” (also “B.L.”), defined as 20 feet beyond the outside perimeter of outer tank.

TANK CONTRACTOR shall prepare and provide its procedure for Positive Material Identification for review by the PURCHASER.

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**2.2 Specifications, Drawings and Referenced Documents****2.2.1** All Work shall be performed in strict accordance with the Specifications listed in Attachment I to this Exhibit "D" and with the Drawings and Reference Documents listed in Exhibit "E" of this Tank Contract, which by reference herein are made part of this Scope of Work.

The latest edition of all applicable codes and standards shall be considered as part of the specified specifications, drawings and referenced documents. The latest edition shall mean edition, addenda, clarifications, etc., in force on the effective date of this Tank Contract. In the event of conflict between documents, the more stringent shall govern.


**2.3 Tanks**

Two (2) (or three (3), if PURCHASER exercises Option 1) 160,000m<sup>3</sup> each net capacity tanks shall be designed and furnished by TANK CONTRACTOR for the Phase 2 Facility at Sabine Pass, Louisiana. The tanks shall be designed as single containment tanks, and shall include the following main components:

- A 9% Nickel (Ni) steel, open top, inner tank.
- A carbon steel outer tank.
- A carbon steel domed roof.
- An interior aluminum suspended deck.
- An insulation system for the tank and internal piping.
- An elevated slab foundation (as detailed in sections below).
- Access stairways, walkways and platforming, including perimeter and diagonal walkways, complete with handrails and galvanized steel grating. All nozzles, valves, instruments and other appurtenances shall be accessible from walkways and platforms.
- Structural steel tower for support of piping from tank top sides to the pipe rack at grade.

The tank shall include the following accessories:

- Name plates.
- Manholes/Nozzles and internal piping including four (4) 36" diameter pump columns, stilling wells, cooldown spray ring & nozzles, etc. The location of tank nozzles and accessories shall be reviewed and approved by PURCHASER during detailed engineering.

- Purge and venting system for insulation spaces.
- Stairway access from roof platform to grade.
- Caged escape ladder from tank roof to grade.
- Top Sides Platforms, stairways, and ladders.
- Lighting, including emergency egress lighting.
- A spill protection system (trough) to protect the roof against LNG spills.
- Three (3) dual 300-watt red aviation lights with obstruction lighting controller/flasher.
- Two (2) spare gaskets each for all blinded and bolted connections within the Battery Limits.
- Clips to measure foundation/tank settlements; TANK CONTRACTOR shall prepare a procedure to monitor such settlement and provide the allowable settlements.
- Calibration curves, equations and gauge tables in order to calibrate the inner tank volume after its erection. (Optional) 

**Performance Guarantee:** TANK CONTRACTOR shall prepare and submit Heat Leak and Boil-Off Calculations. No other performance guarantees apply.

## 2.4

### Other Equipment

TANK CONTRACTOR shall design and supply for each tank:

- A jib crane and trolley/hoist system capable of installing, retracting and lowering to grade the Submerged Loading Pumps, and all valves, instruments and other appurtenances.
- Pump filter boxes, columns, bellows, brackets, links, guides and thermal barrier blocks for the Submerged Loading Pumps.
- Two (2) Utility Stations consisting of Plant Air and Nitrogen, complete with hose connections, 100 feet long hoses, and hose reels.
- Pressure and vacuum relief valves (“PRVs” and “VRVs”).
- Nitrogen snuffing will be provided at the tailpipe of each LNG storage tank pressure relief valve stack. This will enable a fire in the relief valve discharge piping to be extinguished. The nitrogen piping for the relief valve tailpipe purging will be run down the side of the tank and terminate with a valve in a safe location at grade.



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**2.5****Civil and Structural**

- TANK CONTRACTOR shall provide a Civil/Structural design based on the following:  
Ground accelerations for the Safe Shutdown Earthquake (SSE) condition and the peak ground acceleration for the Operating Basis Earthquake (OBE).
- Tank foundation: TANK CONTRACTOR shall design the tank foundation based on the Geotechnical report supplied by PURCHASER and enclosed in Exhibit E.
- TANK CONTRACTOR shall design in accordance with the Geotechnical report listed in Exhibit E. TANK CONTRACTOR shall immediately notify PURCHASER in writing before proceeding with any Work if differing soil conditions are encountered.
- TANK CONTRACTOR shall be responsible for the design and installation of all piles. TANK CONTRACTOR shall provide a detailed Quality Assurance and testing procedure for approval by PURCHASER 2 months **[60 DAYS]** prior to start of production pile activities.
- TANK CONTRACTOR shall provide concrete quality/design specifications.
- PURCHASER shall make available the existing concrete supply batch plant on the Site for supply of concrete to TANK CONTRACTOR for the Work, which shall provide ready-mix concrete of sufficient strength and quality for the foundations of the Phase 2 Tanks, and which shall supply such concrete in quantities sufficient to support the progress of the Work. TANK CONTRACTOR shall be responsible for all costs associated with purchasing such concrete from such batch plant.
- TANK CONTRACTOR shall be responsible for the foundation for all other tank components and accessories, including superstructure, control panels and junction boxes, piping, piping supports, cable tray and conduit supports, etc., within the B.L.
- TANK CONTRACTOR shall be responsible for steel superstructure, all walkways, stairways and roof platforms, ladders, suspended roof, etc. Roof platforms shall be designed to support and accommodate all maintenance activities, including dropping and setting down of Submerged Loading Pumps on the roof platform.

**2.6****Piping**

The TANK CONTRACTOR shall have the sole responsibility for complete design and supply of the piping and piping stress analysis and supports within the battery limit of each LNG tank.

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Design shall include checking for all load conditions including normal operation, upset, water hammer/seismic, shutdown, and hydrotest, and include the following:

- Purge and venting systems;
- Block valves and vents for PRVs and VRVs;
- All process and utility piping including pipe supports, guides, spring hangers, bolts, gaskets, blinds, etc.;
- Thermal barrier blocks.

PURCHASER will provide the hydrodynamic piping analysis for the LNG unloading from the LNG loading arms to the tanks for use by TANK CONTRACTOR.

TANK CONTRACTOR shall develop and provide as a minimum, but without limitation, the following for review by PURCHASER:

- Allowable nozzle loads;
- Piping plans and sections;
- Tie-in and location plan;
- Platform drawings;
- Piping Isometrics.

## 2.7

### **Instrumentation/Control Systems**

TANK CONTRACTOR shall recommend the necessary instrumentation and controls required to safely operate and protect each of the storage tanks. These recommendations shall be submitted to PURCHASER and shall include, as a minimum but without limitation, the following:

- Tank Data Acquisition System (see below);
- Tank wall temperature sensors (Cool Down);
- Tank bottom temperature sensors (Cool Down);
- Outer tank floor and suspended deck low temperature sensors;
- Density/level/temperature sensor (servo type);
- Tank level sensors (redundant, servo type);
- High level switch;

- 
- Tank pressure transmitter (redundant);
  - Tank temperature profile sensors;
  - Vapor space temperature sensors;
  - Inner tank movement monitoring system;
  - Tank pressure/vacuum relief valves.\*\*

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\*\* It is the TANK CONTRACTOR's responsibility to size the pressure/vacuum relief valves.

All electronic instruments shall be designed and wired to TANK CONTRACTOR-supplied junction boxes located at grade, 20 feet horizontally from the base of the tank (i.e. within the Battery Limits) and include:

- Cable trays and supports;
- Installation materials, including cables, tubes, conduits, junction boxes, etc.

TANK CONTRACTOR shall provide calculations and certification for pressure/vacuum relief valves.

TANK CONTRACTOR shall be responsible for installing control valves and other instrumentation shown within the boundary limits of TANK CONTRACTOR's package on the referenced P&ID's. TANK CONTRACTOR shall clearly identify the location and physical interconnection of this equipment on approval drawings submitted to PURCHASER.

TANK CONTRACTOR shall design and supply running instrument air sub-headers (with isolation valves for take-offs) from TANK CONTRACTOR Battery Limits to those areas requiring this service.

TANK CONTRACTOR shall perform calibration tests for all instruments provided by TANK CONTRACTOR or any Subcontractor or Sub-subcontractor for the Phase 2 Tanks. TANK CONTRACTOR shall provide additional gas detection instrumentation to cover the air gap below the elevated slab. A minimum of 8 gas detectors per tank shall be furnished. The gas detectors shall be wired to the junction boxes at the Battery Limits.

TANK CONTRACTOR shall provide complete and comprehensive testing procedures for all equipment and systems provided.

TANK CONTRACTOR shall develop as part of this Scope of Work the following information, as a minimum but without limitation:

- ISA (Instrument Society of America) data sheets for all TANK CONTRACTOR-supplied instrumentation.

- Layout and Installation details for instruments including Instrument location drawings, conduit & cable routing drawings and wiring/connection drawings.
- Instrument wiring, termination drawings loop diagrams and single line diagrams.

#### **Tank Data Acquisition System**

The following is an expanded description of the data acquisition system for each tank. The data acquisition system shall be a microprocessor-based programmable controller (PC) equipped with TANK CONTRACTOR provided control software and shall receive, display, trend and historize the signals from the gauges, temperature sensors and other instrumentation signals at the storage tank. The PC shall be located in the Plant Control Room remote from the storage tank with printing and historical data storage capabilities. A remote indicator of tank level shall be provided at the Jetty.

TANK CONTRACTOR's design for the data acquisition system shall include the interconnecting cable network between the PC, the remote station at the Jetty and the local junction box, which marshals field wiring from the tank instrumentation. Physical installation of TANK CONTRACTOR-designed cabling to the control room and the Jetty from the local junction box shall be by PURCHASER, although final commissioning and testing shall be the sole responsibility of TANK CONTRACTOR. Components of the PC, including hardware and interconnecting network cabling, shall be provided in a redundant configuration if required to provide a safe and reliable system.

The PC shall be able to communicate to the Plant DCS System, provided by PURCHASER, for information sharing purposes via standard Modbus OPC protocol. TANK CONTRACTOR shall provide a PC or PC simulator to adequately test this signal interface during PURCHASER's DCS Factory Acceptance Test. PURCHASER's representatives shall witness such tests.

## **2.8**

### **Electrical**

TANK CONTRACTOR's scope of design and supply of electrical equipment shall be in accordance with the referenced Project Specifications.

TANK CONTRACTOR shall design and supply all electrical equipment and materials in accordance with, the referenced Project Specifications, the National Electrical Code (NEC), NFPA 59A, and GECP. All electrical equipment and materials shall also meet the requirements of the electrical hazardous area classification for the tank area, as defined in Exhibit "E" — Drawings.

Electrical equipment shall be listed and labeled by UL (when applicable).

- 2.8.1** TANK CONTRACTOR shall determine the electrical hazardous area classification for the tank area, using the most stringent requirements, specified in Section 5.9 of Project Specification for Electrical Design Basis 3DR-E12F-00001 and in accordance with the requirements of latest editions of NFPA 59A and API 505. The electrical material shall be suitable for installation in Class 1, Div. 2, Group D Area Classification.
- 2.8.2** TANK CONTRACTOR's provisions for the electrical service to PURCHASER's supplied submerged LNG pump motors shall consist of:
- TANK CONTRACTOR shall coordinate with the pump vendor, through the PURCHASER's LNG pump specialist, the accommodation of sealing provisions and strain relief for pump motor cables, which will exit the top of the tank(s).
  - TANK CONTRACTOR shall provide and locate mounting brackets on top of each tank for the PURCHASER's pump motor service connection boxes for each pump motor. TANK CONTRACTOR shall coordinate mounting provisions and box dimensions with the pump vendor through PURCHASER's pump specialist.
  - Tank supported ladder type, heavy duty aluminum (NEMA 20C) or hot dipped galvanized carbon steel cable tray shall be furnished and routed from the pump motor service connection boxes down to the base of each tank and the tray shall extend 20 feet horizontally from the base of each tank. Connection boxes shall be of sufficient size to terminate PURCHASER supplied shielded cables, stress cones and provision to ground cable shield. The cable tray shall be of sufficient strength to support PURCHASER's cables that PURCHASER will install to the LNG pump junction boxes at the top of each tank.
- 2.8.3** Deleted.
- 2.8.4** TANK CONTRACTOR shall design, supply, and install all required equipment and materials for a complete tank lighting system, including:
- Electrical lighting systems (both normal and standby/egress) for the tank stairways and roof platforms. Lighting system, including the lighting controller, shall be designed in accordance with NFPA 59A.
  - Junction boxes. All wiring shall be brought to interface junction boxes, located at grade, for lighting, convenience receptacles, and in-tank pump hoists.
  - The available voltage for lighting is 120 VAC single phase, 60 Hz. The lighting system shall be completely wired to a NEMA 4X 304 stainless steel junction box. Circuits shall be supplied with 20A breakers with a maximum loading of 12A per circuit. Separate circuits for standby and normal power lighting shall be furnished. All wiring shall be bottom or side entry.
  - High-pressure sodium, 70 watt, lighting fixtures. The lighting systems shall be designed to provide a minimum of 5fc in accordance with API Code 540.
- Lighting

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fixtures shall be suitable for installation in a Class 1, Div. 2, Group D area, and shall have as a minimum a T-rating of "T2A." Photometric calculations shall be provided for PURCHASER review and approval.

- Junction boxes and associated wiring shall be furnished and installed 20 feet horizontally from the base of the tank, within the B.L.
- Circuit distribution shall ensure that the failure of any single circuit shall not leave any area in darkness. The circuit number shall be marked on each fixture and on the conductors in junction boxes.
- One 120-Volt, 20-ampere receptacle at every platform, one at each end of the LNG Loading Pump platform atop the tank, and one at the tank base near the stairway.
- TANK CONTRACTOR shall design, supply and install lightning protection in accordance with NFPA 59A.
- TANK CONTRACTOR shall design, supply and install aviation obstruction lighting systems in accordance with Federal Aviation Authority, International Regulation ICAO and local government regulations. The aviation lighting component shall be suitable for the area classification. The aviation obstruction lights shall be rated for 120V or 208 Volt, single phase, 60 Hz and shall be on independent standby power circuits.

PURCHASER will design and supply power cable up to TANK CONTRACTOR's junction boxes, located inside its B.L. near the tank base.

**2.8.5** TANK CONTRACTOR shall design, supply and install all required equipment and materials for a complete tank grounding system, including:

- A minimum of four (4) welded grounding lugs placed at opposite sides of each tank base outer container. Lugs shall be connected to TANK CONTRACTOR's ground grid with #4/0 AWG, bare, stranded copper conductors. Welded grounding lugs shall be drilled for NEMA two (2) hole lug spacing.
- Protection against the build-up of static charges.
- Grounding of each of the main junction boxes, heating controllers, stairways, platforms, and cable trays.
- A bare copper equipment grounding conductor run in each cable and each conduit, including lighting circuits.
- A #4/0 AWG, bare, stranded, copper grounding conductor, buried a minimum 24 inches below grade, around the perimeter of the B.L.

PURCHASER will design and supply the main plant grounding grid connection to TANK CONTRACTOR's grounding system.

- 2.8.6** TANK CONTRACTOR shall design, supply and install all wiring, conductors, and raceway systems required for a complete electrical installation, including:
- Cables shall be sunlight resistant, Type TC, construction and shall meet the requirements of the Project Specifications. Conductors shall be stranded copper, insulated with 600 Volt XHHW-2 insulation rated 200°F dry and 165°F wet. The cable shall be rated for cable tray use, direct sunlight, above and below grade conduit, and for wet locations. A bare copper equipment grounding conductor shall be part of the cable. The cable components shall be suitable for -12°F (minus) minimum ambient temperature.
  - Termination lugs shall be non-insulated compression barrel type ring tongue.
  - Terminations shall have heat shrinkable pre-printed wire markers at each end, on each wire.
  - Cables in cable tray shall be secured to tray rungs by stainless steel banding material in both horizontal and vertical runs at not less than 3 feet centers. Strain relief Kellum grips shall be used for vertical runs exceeding 20 feet.
  - Cable tray shall be copper free aluminum or hot dipped galvanized carbon steel ladder type with 9 inch rung spacing, NEMA VE-1 Class 20C. Cable tray hardware shall be 304 stainless steel. Changes in direction shall be accomplished with standard tray fittings with a radius not less than 24 inches. TANK CONTRACTOR shall design and furnish all cable tray and tray supports.
  - Conduit shall be galvanized rigid steel or rigid aluminum, schedule 40 minimum. Minimum conduit size shall be 3/4 inch. Conduit fittings shall be threaded malleable iron.
  - Main junction boxes shall be stainless steel and shall have drain plugs to remove moisture, except for NEMA 7 and purged junction boxes. Doors shall have 304 stainless steel hardware and shall have full length hinges.
  - Nameplates shall be lamacoid type, attached with stainless steel screws.
  - Nameplates shall be white background with black 1/8 inch high letters (minimum). Main nameplates shall have 3/4 inch minimum letter size. Legends for nameplates will be approved by PURCHASER.

**2.8.7** Shelter

TANK CONTRACTOR shall design and supply a rain/sun shelter, at the base of each tank, of sufficient size to cover the main junction boxes and all other power interface boxes, and local level indicators. The shelter shall be of sufficient dimensions and height to allow for easy access to all equipment by operations/maintenance personnel. Shelter design shall be approved by PURCHASER prior to fabrication.

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**2.8.8** TANK CONTRACTOR shall develop as part of this Scope of Work, the following information, as a minimum but without limitation:

- Area classification;
- Electrical schematic diagrams;
- Electrical wiring diagrams including connection diagrams for junction boxes;
- Electrical cable tray layouts;
- Dimensional outline drawing showing location of all major electrical equipment including junction boxes, panel boards and motors;
- Location and size of allocated PURCHASER connections to TANK CONTRACTOR'S junction box;
- Tank base electrical heater and raceway system layout (if required);
- Electrical interface details: LNG tank and LNG pump motors, *e.g.*, cables, terminations, junction boxes;
- Electrical lighting and socket outlet and wiring diagrams;
- Earthing diagram;
- Detailed bill of material including name of manufacturer, catalog number and all components and catalog cut sheets;
- System electrical calculations;
- Electrical testing procedures;
- Certified test reports.

**2.9** **Options:**

TANK CONTRACTOR may propose alternate materials of construction; any such proposals should include prior experience in the use of such alternate materials in similar applications.

**2.10** **Document / Data Requirements**

**2.10.1** Drawings and Data

- Drawings and other data shall be submitted for PURCHASER's review as listed in Attachment II – Document Requirement Sheet. Drawings will be returned to TANK CONTRACTOR within 10 Working Days. Reviews by the PURCHASER shall not release TANK CONTRACTOR of any of its duties, obligations or liabilities provided under this Tank Contract.



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- TANK CONTRACTOR shall provide a list of all documentation to be submitted.
  - TANK CONTRACTOR shall provide a document index of all engineering, TANK CONTRACTOR and construction documents for all equipment and materials.
  - All design and construction drawings shall be produced in Autocad 2002.

**2.10.2** Operations / Maintenance Manuals

- Two (2) complete draft sets of an Operations and Maintenance Manual shall be submitted in accordance with Section 7.4 (7) of the Special Conditions of this Tank Contract, covering all materials, equipment and systems installed under this Tank Contract, and further including a spare parts list.
- PURCHASER will review and issue comments within 30 Days; after PURCHASER's review TANK CONTRACTOR shall update and issue ten (10) complete final sets within an additional 30 Business Days.

**2.10.3** Data Books

- Data Books shall be submitted in the same manner as the Operations & Maintenance Manuals, above.
- Include a document index of all engineering, TANK CONTRACTOR and construction documents for all equipment and materials.
- All design, TANK CONTRACTOR, fabrication/construction drawings and documentation shall be included for all materials and equipment provided, including traceability documentation.
- To the extent possible, all documentation shall be produced in Autocad 2002. Electronic files for all documentation shall be submitted to the PURCHASER upon completion of the Work.
- TANK CONTRACTOR shall include all procedures and other documentation used to perform the Work
- See Paragraph 3.14 for "As-built" construction drawing requirements, to be included upon completion of its Work

**General**

TANK CONTRACTOR shall perform all Work in accordance with this Exhibit "D" and the Specifications listed in Attachment I and Drawings listed in Exhibit "E" of this Tank Contract, which by reference are made part hereof.

Except as otherwise expressly described elsewhere in this Tank Contract, TANK CONTRACTOR shall supply all necessary supervision, labor, construction equipment, materials, consumable supplies, transportation, tools, staging, receiving, handling and storage, mobilization and demobilization, insurance, and other services and items of expense required to perform the Work.

TANK CONTRACTOR shall perform the Work with the full knowledge of the risks and hazards of the Work, including but not limited to the proximity of the sea, adjacent facilities and equipment, local inhabitants and the environment and how these will all affect the execution of its Work.

TANK CONTRACTOR is to be aware that during tank erection, other subcontractors, who will be installing piperack foundations, piperack steelwork, pipe work and the central sump, will require access.

Special reference is made hereof of the PURCHASER's Safety and Health Plan, as detailed in "Exhibit B, Appendix B-2". All work and reporting requirements shall be performed in accordance with this Plan. TANK CONTRACTOR shall pay particular attention to the use of safety harnesses by all personnel.

TANK CONTRACTOR shall develop and submit for PURCHASER approval all the necessary detailed construction and erection procedures and Method Statements necessary to perform the Work. In addition, TANK CONTRACTOR shall develop a Temporary Facilities Plan for approval by PURCHASER 90 Days after award of this Tank Contract.

PURCHASER reserves the right to perform visual and NDE inspections, and witness TANK CONTRACTOR's inspections and tests, at any stage and at any time during the course of TANK CONTRACTOR'S Work. PURCHASER will notify TANK CONTRACTOR a minimum of 3 Business Days in advance of performing any independent tests.

PURCHASER will coordinate inspections and tests in such a manner so as not to disrupt or delay the regular progress of TANK CONTRACTOR's Work. Performance of any such inspections and tests by PURCHASER shall not be construed as relieving TANK CONTRACTOR of the responsibility for performing work and supplying materials in a safe and workmanlike manner and in accordance with the Tank Contract Schedule and the Tank Contract Documents.

Without limiting the above, TANK CONTRACTOR's Work shall include but not be limited to the following activities.

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**3.2      Field Verification**

TANK CONTRACTOR shall layout the Work and establish all lines and levels from the drawings, and shall assume full responsibility for the correctness of its Work.

**3.3      Site Preparation**

- After early clearing and rough grading (see Section 5.0 herein) by PURCHASER, TANK CONTRACTOR shall perform any other site grade activities to suit its own requirements for construction. The Phase 2 Tank Site will be provided to TANK CONTRACTOR to within 6" of final grade for TANK CONTRACTOR to begin its foundation and piling work.
- PURCHASER will perform rough grading as required within the LNG Tank area work limits to provide TANK CONTRACTOR a suitable initial surface for construction in this area. PURCHASER is stabilizing to 25 psi the top 14 feet of hydraulic spoil material. TANK CONTRACTOR is responsible for utilizing this information appropriately to execute the Work. PURCHASER will provide and maintain all access roads. PURCHASER will prepare and provide laydown areas and parking areas for the TANK CONTRACTOR's use. TANK CONTRACTOR is responsible for maintenance of the parking and laydown areas.
- TANK CONTRACTOR shall incorporate into its design the elevations shown on the Civil Site Development Drawings, provided by PURCHASER. TANK CONTRACTOR shall be responsible for final grading and final surface improvements under each Phase 2 Tank.
- Deleted
- Excavation, backfill, compaction, and disposal of surplus material shall be handled per Specification No. 3PS-CGOO-F0001. TANK CONTRACTOR shall provide a procedure to handle Hazardous Substances in accordance with the attached PURCHASER provided Construction Environmental Control Plan. PURCHASER shall be responsible for the removal, transport and/or disposal of pre-existing Hazardous Materials, in accordance with SC-34.3.
- Deleted
- TANK CONTRACTOR shall, as a minimum, submit the following for PURCHASER review:
  1. Pile material, size, length, and details of anchorage in base material mat.
  2. Allowable compressive and tensile load capacities and allowable lateral load capacities for static loads. Allowable vertical and lateral load capacities shall include any appropriate reduction due to group action.

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3. Allowable compressive and tensile load capacities and allowable lateral load capacities for dynamic loads. Allowable vertical and lateral load capacities shall include any appropriate reduction due to group action.
  4. Vertical and horizontal spring constants and models for static loads.
  5. Vertical and horizontal spring constants and models for dynamic loads should be developed for liquefied and non-liquefied soil (upper bound average and lower bound soil conditions).
  6. Pile damping factors (vertical and horizontal motion).
  7. System damping factors for soil/structure interaction analysis.
  8. Foundation settlement analysis (immediate and long term) including estimate of differential settlement along the tank perimeter and settlement profile across the tank for various loading cases (hydro test, operational).

In addition to the above, the following construction procedures should be submitted:

1. Plan for indicator pile program including details of driving equipment and installation methods to be used. The plan should include a minimum of twenty-one (21) indicator piles inside each tank footprint.
2. Plan for dynamic tests before production pile driving to validate the pile design. For each tank, a minimum of six (6) out of the twenty-one (21) indicator piles, evenly distributed within the tank footprint, should be PDA tested to determine the pile capacity. PDA should be conducted from the start to end of driving, so the driving stresses and capacity variation are measured. Driving records should be post processed using the CAPWAP program. After allowing sufficient time for full setup, re-tap the six (6) PDA tested piles to estimate pile setup. Re-tap data should be analyzed using CAPWAP.
3. Plan for static tests to clearly define the relationship between static and dynamic test results. After allowing sufficient time for full setup after re-tap, perform static axial compressive load test on a minimum of three (3) of the six (6) PDA tested piles for each tank. Static load tests should be conducted to clearly define the failure load. Static load test should be conducted per ASTM D 1143.
4. Pile driving criteria (acceptance and refusal) based on the results of the static and dynamic tests.
5. Lateral load test should be conducted on at least one selected pile per tank per ASTM D 3966.

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QA/QC procedures during production pile driving including dynamic and/or static load tests.

Pile driving operations may be on a continual basis. PURCHASER will work to mitigate permit restrictions for noise impacts caused by extended pile driving days/hours.

#### 3.4

##### **Tank (for each tank)**

- Tank foundation including, but not limited to, excavation, framing, pouring and finishing of concrete. TANK CONTRACTOR is not required to provide any purely aesthetic finishing for the Phase 2 Tanks.
- Foundation for all superstructure supports, control and junction boxes, pipe and electrical/instrument supports within Battery Limits.
- Concrete test reports shall be provided for all installed concrete, both the tank and the piling.
- Jacking reports, if required, shall be submitted for prior approval by the PURCHASER, and resubmitted when complete. Surveillance Procedure shall be prepared by TANK CONTRACTOR and submitted for review.
- Erection/installation of inner 9% Ni steel tank, including all insulation.
- Carbon steel domed roof and interior aluminum suspended insulated deck.
- Provide NDE procedures. Perform NDEs in accordance with API 620 and NFPA 59A and Project Specification requirements.
- Provide testing procedure for outer tank in accordance with API 620. Pressure test shall include a calibrated recording instrument capable of accounting for barometric pressure and ambient temperature changes.
- Prior to any welding being performed on the tank, TANK CONTRACTOR shall submit its welding procedures to PURCHASER for review and approval. Welding procedures shall be based on the actual metallurgy to be used in the final installations.  
This review and approval by PURCHASER shall not be construed as relieving TANK CONTRACTOR of the responsibility of welding in a safe and workmanlike manner, and all welds shall be in accordance with Good Engineering and Construction Practices.
- All welders must pass a welders qualification test procedure, which shall be in accordance with ASME section IX, and which shall be submitted to and approved by PURCHASER prior to the commencement of any welding. All welders' test records shall be submitted to PURCHASER.

- All radiographs shall be made available to PURCHASER for review upon request and turned over to PURCHASER upon completion of the Work. "As-built" drawings shall indicate the locations of radiographs. The NDE/Radiographic inspections shall be in accordance with Project Specifications and Code (API 620 and NFPA 59A) requirements. The Parties agree that digital radiography is an acceptable form of NDE.
- PURCHASER reserves the right to perform visual and NDE inspections on all materials at the delivery point, including fabrication shop(s).
- TANK CONTRACTOR is responsible for hydrotesting of inner tank and monitoring of foundation/tank settlements during hydrotesting. Hydrotest water will be available in a holding pond 4000 feet from the tanks. Water will comply with API 620 Appendix Q. TANK CONTRACTOR shall filter and pump the water from the holding pond and return the water to the pond upon completion
- TANK CONTRACTOR shall also furnish a detailed procedure for hydro pneumatic test for PURCHASER's approval within 6 months of execution. This procedure should include the details of instruments that would be deployed to take care of ambient temperature variations during the test.
- Cleaning of tank interior after hydrostatic testing. TANK CONTRACTOR shall broom clean the tank after hydrotest.
- Conduct final tightness test (Section 4.2) and obtain final acceptance from PURCHASER.
- Tank shall be dried out and maintained with nitrogen purge ready for turn over to PURCHASER. (Reference Section 4.2)
- All 9% Ni steel material shall be provided with PMI tags/material test certificates. TANK CONTRACTOR shall provide PMI procedure for PURCHASER's approval. All other material shall be provided with Material Certification.

### 3.5 **Other Equipment**

- Installation of jib crane and trolley/hoist systems.
- Installation of pump retracting and lowering system, filter boxes, columns, bellows, brackets, links, guides, and thermal barrier blocks for submerged loading pumps.
- Installation of submerged loading pumps and motors, foot valves, pump head plates, junction boxes, and electrical/instrument cables.

**Piping**

- Supply all internal and external piping materials including but not limited to pipe valves fittings, welding materials, supports, hangers, guides, flanges, gaskets, etc., not specifically identified as being supplied by PURCHASER. All materials shall be color coded and/or permanently tagged for installation in accordance with TANK CONTRACTOR's Procedure.
- Installation of control valves and in-line instruments supplied by PURCHASER.
- Prior to any welding being performed on the tank or any pipe, TANK CONTRACTOR shall submit its welding procedures to PURCHASER for review and approval. Welding procedures shall be based on the actual metallurgy to be used in the final installations. In addition, TANK CONTRACTOR shall submit all weld repair procedures for approval by PURCHASER 3 months prior to start of Work.
- Applications of the welding procedures shall be described adequately to allow verification of qualification range and suitability for use. Application of a procedure to its joint(s) may be supplemented by means of typical pipe spool drawings. Piping classes, pipe diameters, wall thicknesses, applicable fabrication code and other technical requirements of the pipe welding shall be shown or listed. Suppliers PWHT, filler metal control and other procedures applicable to pipe fabrication shall be listed.

This review and approval by PURCHASER shall not be construed as relieving TANK CONTRACTOR of the responsibility of welding in a safe and workmanlike manner, and all welds shall be in accordance with Good Engineering and Construction Practices.
- All welders must pass a welder qualification test procedure that has been reviewed and approved by PURCHASER. All welders' test records shall be submitted to PURCHASER.
- All radiographs shall be made available to PURCHASER for review upon request and turned over to PURCHASER upon completion of the Work. As-built" drawings shall indicate the locations of radiographs.
- TANK CONTRACTOR shall only use inflatable purge dams during pipe welding operations. Foam, cardboard or wooden purge dams will not be permitted.
- TANK CONTRACTOR shall maintain a log to control purge dam installation and removal.
- TANK CONTRACTOR shall provide all applicable NDE procedures.

- PURCHASER reserves the right to perform visual and NDE inspections on all materials at the delivery point, including fabrication shop(s).
- TANK CONTRACTOR shall provide written procedure for pressure testing (both shop and field) for review by PURCHASER. Testing as a minimum shall be in accordance with ASME B31.3. TANK CONTRACTOR shall provide all labor, materials and services required to perform such tests. All tests (diagrams, records, etc.) shall be documented and submitted to the PURCHASER upon completion.
- During each pressure test, all welded threaded, flanged and packed joints shall be visually inspected for leaks.
- All restrictions which interfere with filling, venting or draining shall be removed when testing pipe; vents and drains shall be provided as required.
- TANK CONTRACTOR shall prepare a tie-in list and schedule for PURCHASER's review and approval. Completion of tie-in work shall be coordinated with PURCHASER.
- Test procedures and test facility, for cryogenic and relief valves, shall be submitted for PURCHASER's review of TANK CONTRACTOR-supplied valves. All cryogenic and relief valves (PRVs and VRVs) shall be tested in accordance with these procedures. TANK CONTRACTOR shall ensure that all valves are then safely transported to the Phase 2 Tank Site and protected before, during and after installation. All valves shall be retested after installation. Damaged valves will not be accepted and shall be replaced with new ones. Relief valves shall not be installed during hydrotest.
- TANK CONTRACTOR shall employ the services of a facility with proven experience in this type of valve testing. All testing will be subject to witnessing by PURCHASER. TANK CONTRACTOR shall prepare a testing schedule and shall advise and confirm each test to PURCHASER at least 2 Business Days in advance of performing such tests.

### 3.7

#### **Structural Steel and Concrete**

Supply, install, fabricate and erect all structural steel and concrete for all items listed in Section 2.0 above.

### 3.8

#### **Insulation**

- Supply, fabricate and install all insulation for the tank and all internal piping, including fittings, flanges, valves, and cold shoes for the external piping inside TANK CONTRACTOR's Battery Limits. A minimum of 10% reserve capacity reservoir of expanded perlite insulation shall be provided at the top of the shell annular space to replenish perlite, which settles due to thermal movements of the inner tank.



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- All piping shall be pressure tested before application of insulation.
  - External piping insulation inside TANK CONTRACTOR's B.L. will be by TANK CONTRACTOR.

### **3.9      Painting**

- Supply and apply all protective coatings (paint) as defined within Specification 25027-001-3PS-NXOO-F0001, "PROJECT SPECIFICATION FOR PROTECTIVE COATINGS (PAINT)."
- Ladders, cages, and grating shall be galvanized in accordance with ASTM A123. All other structural steel members shall be conventional hot dipped galvanized. As an alternate, these items except gratings may be coated as defined for exterior structural steel and carbon steel piping with prior approval.

### **3.10     Instrumentation / Control Systems**

- Test and install all equipment and materials, including those items supplied by PURCHASER in order to provide a complete and operating control and instrumentation system per this "Exhibit D."
- Install cable and complete all cable terminations between instruments and control panels/junction boxes within TANK CONTRACTOR's battery limit.
- Install instrument air pipe and tubing, valves, and tube fittings, as required.
- All cables shall be supported in cable tray or in channels.
- Inspect, calibrate and test all transmitting instruments and process switches.
- Perform continuity loop checks for each instrument loop in coordination with and witnessed by PURCHASER.
- TANK CONTRACTOR shall maintain all test and calibration documentation and turn over such documentation upon final acceptance of the Work.
- Complete instrumentation, data acquisition, and communication interface units shall be configured and tested by TANK CONTRACTOR and witnessed and accepted by PURCHASER.

### **3.11     Electrical**

- Install all interfacing power and control cabling and wiring between major components and control panels/junction boxes supplied by TANK CONTRACTOR.

- Install and terminate control cables from TANK CONTRACTOR supplied junction boxes on top of the tank to the Submerged Loading Pump Headplates. Cable from PURCHASER's MCC to these junction boxes will be supplied and run by PURCHASER.
- Install all lighting fixtures, branch circuit to lighting fixtures and socket outlets.
- Install all cable trays and conduits inside the Battery Limits.
- Install all miscellaneous supports required.
- Install grounding system for TANK CONTRACTOR-installed items (i.e., tanks, junction boxes, control panels, etc.) Install all miscellaneous supports required.
- Install aviation lights and obstruction lighting controllers.

**3.12      Warehousing / Onsite Storage**

- TANK CONTRACTOR shall provide their own onsite storage and warehousing facilities.
- Smaller mechanical and electrical items, instrumentation, control and relief valves shall all be stored indoors.
- All items stored outdoors shall be placed on appropriate dunnage/cribbing and covered with weather proofed covers to ensure adequate protection against dirt and the environment.
- TANK CONTRACTOR shall prepare and institute a maintenance and preservation program for all applicable equipment and materials, including PURCHASER supplied loading pumps, up to final turnover to PURCHASER. PURCHASER will coordinate delivery of pumps with TANK CONTRACTOR to avoid extended onsite storage.

**3.13      Machinery Installation**

The installation of equipment shall be done in accordance with all provisions of API Recommended Practice 686, Machinery Installation and Installation Design.

**3.14      As-Built Drawings**

- Red line PURCHASER's P&IDs with as-built information and submit to PURCHASER for incorporation into its electronic files.
- Red line PURCHASER's final grading drawings with as-built information and submit to PURCHASER for incorporation into its electronic files.

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- Submit as-built (both hard copy reproducible and electronic file) certified drawings of the following:
    - Foundation Details
    - Concrete Base
    - Piping and Spool Drawings
    - Tank Fabrication & Erection Drawings
    - Electrical Drawings
    - Single Line Diagrams
    - Instrument Location Drawings
    - Loop Diagrams
    - Wiring Termination Drawings
    - Instrument Data Sheets

#### **4.0 PRE-COMMISSIONING / PURGING**

##### **4.1 Pre-commissioning**

TANK CONTRACTOR shall provide all labor, supervision, materials, including required spare parts, equipment and consumables and each and every item required to safely and effectively pre-commission the Phase 2 Tanks. TANK CONTRACTOR is to use this paragraph as a guide to be incorporated into his procedure to be approved by PURCHASER.

No later than twelve (12) months before TANK CONTRACTOR is ready for pre-commissioning activities, it shall submit for PURCHASER's approval, a Pre-commissioning Schedule and Execution Plan, outlining as a minimum the following:

- Detailed logic network diagram and bar charts to show the sequence of Work and manpower requirements, including without limitation the following activities, materials and equipment required, and the requirements for interaction with others.
- Material, including spare parts, and consumable checklists indicating purchase dates and deliveries.
- Equipment checklists including requisitions and expected deliveries.
- Recommended De-Commissioning Procedure.

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- Pre-commissioning activities shall include but not be limited to:
- 4.1.1** Removal of rust preventatives
- Rust preventatives shall not be removed until equipment is ready for pre-commissioning. TANK CONTRACTOR shall assure that stainless piping and critical areas are maintained rust free.
- 4.1.2** Deleted
- 4.1.3** Flushing / Blowing / Chemical Cleaning
- Break flanges, remove control valves, orifice plates, and spool pieces, install temporary blinds and remake piping connections as required by PURCHASER for the flushing/blowing/chemical cleaning of piping and equipment run-in.
  - Turn system over to the PURCHASER free of trash and construction debris.
  - Check and install correct packing and lubricants in all valves and plug locks.
  - Remove temporary blinds and re-install valves and other items of hardware removed for flushing/blowing/chemical cleaning.
- 4.1.4** See 4.2
- 4.1.5** Submerged Loading Pumps, Pre-Start Inspection, Test and Run-In
- TANK CONTRACTOR shall provide to PURCHASER access to this equipment. All work by PURCHASER shall be a joint work effort by TANK CONTRACTOR, PURCHASER and the LNG pump vendor.
- 4.1.6** Piping
- Check pipe hangers, supports, guides, and pipe specialties for hot/cold settings and make necessary adjustment within Battery Limits.
  - Check and record position of all locked valves.
- 4.1.7** Instruments and Calibration
- Loop check of instruments supplied by PURCHASER (Ref: P&ID's) and installed by TANK CONTRACTOR.
  - Loop check of instruments supplied and installed by TANK CONTRACTOR.
  - Continuity test and megger test of cables between field instrument connections and junction boxes within battery limit.

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- 4.1.8** Electrical Equipment
- Perform tests on electrical equipment in accordance with Project Specification for Electrical Installation and Testing during Pre-Commissioning stage 25027-001 -3PS-EOOZ-F0001.
- 4.2** **Drying/Purging/Cooldown of LNG Tanks and Accessories (piping etc)**
- Install/dismantle purge connections and systems.
  - Drying and purging operation.
  - Provide purge media such as nitrogen.
  - Carry out drying and purging.
  - After dismantling of temporary purge piping, close all purge nozzle valves, install all purge nozzle blinds. Recheck all connections that were disturbed after completion of the pneumatic test.
  - All tanks and accessories shall be left with a Nitrogen Purge.
  - At provisional acceptance, PURCHASER assumes responsibility for each tank including maintenance of the purge.
  - Provide cool down procedure for PURCHASER's review. Provide experienced supervision during cool down by PURCHASER.
  - After cool down, TANK CONTRACTOR shall perform thermographic inspections on the tank(s).
- 5.0** **WORK NOT INCLUDED**
- The following works are NOT included in TANK CONTRACTOR's Scope of Work:
- Early site clearing and rough grading
  - Access road to the site
  - Design and supply of cables to connect tank gauging system with DCS and marine Terminal location
- 6.0** **ITEMS SUPPLIED BY THE PURCHASER AND LIMITATIONS THERETO**
- PURCHASER will furnish or cause to be furnished to TANK CONTRACTOR, without cost, the following items for or in connection with the performance of TANK CONTRACTOR's Work.

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- 6.1** Up to a total of six (6) submerged loading pumps, motors, cables, foot valves, junction boxes and head plates; three (3) assemblies per LNG tank, *i.e.* six assemblies for each terminal (assuming two tanks for Phase 2 terminal). Pre-start inspection, test and run-in. TANK CONTRACTOR shall provide PURCHASER access to this equipment.
- 6.2** Control valves.
- 6.3** PURCHASER will be responsible for the final earth dike installation, permanent roads, permanent drainage, and spill containment basins and pumping.
- 6.4** Stone paving for final grading around tanks detailed in Section 3.3.
- 6.5** Fuel, at the day tank, for each main construction generator (1 ea per tank).

**7.0 ITEMS SUPPLIED BY TANK CONTRACTOR**

TANK CONTRACTOR shall supply each and every item required to perform the Work, except as described in Sections 5.0 & 6.0 above and in Section SC-4 of "Exhibit B" Special Conditions.

TANK CONTRACTOR shall provide, or cause to be provided, a labor force, including supervision, that is knowledgeable, qualified and skilled to perform and execute all aspects of the Work.

Without limiting the foregoing, TANK CONTRACTOR's Work shall also include but not be limited to:

**7.1 In the Home Office**

- Engineering and detailed design.
- Procurement of all materials (except as noted in 6.0).
- Quality Assurance/Quality Control Program in accordance with Appendix B-1 of this Tank Contract.
- Up to three offices for PURCHASER's personnel including phone, use of secretarial services, fax and photocopying services, data port for connection and use of email/modem/and printing facilities. PURCHASER will provide laptop computers for use by PURCHASER personnel.
- Preparation and implementation of an engineering, procurement and construction Quality Assurance/Quality Control Program.
- Preparation of Site safety and health plan for implementation on Site.

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- Preparation of a detailed EPC schedule with reporting of weekly progress including status, concerns, plan to mitigate all concerns, and forecast of all late activities or anticipated slippage.
  - Preparation of all necessary design, procurement, fabrication, construction and commissioning/start-up procedures.

**7.2 [Not Used]**

**7.3 Transportation & Delivery**

- Export packing.
- Inland transportation inside exporting country.
- Forwarding charges such as acquisition of export license, customs clearance, preparation of shipping documents, warehousing/handling, and similar charges.
- Ocean/air freight including surcharges.
- Unloading, landing, import expense, customs clearance (as required), storage or warehousing charges, and similar charges.
- Inland transportation inside importing country including cartage charges.
- Other charges, as incurred.

**7.4 Return Cargo**

- Export packing, if any.
- Inland transportation inside exporting country.
- Forwarding charges such as acquisition of export license, customs clearance, preparation of shipping documents, warehousing/handling, and similar charges.
- Ocean/air freight including surcharges.
- Unloading, landing, import expense storage or warehousing charges, and similar charges.
- Inland transportation inside importing country including cartage charges.
- Other charges, if any.

**7.5 TANK CONTRACTOR's Site Office**

- Site preparation (clearing and rough grading by PURCHASER).

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- Phase 2 Site office (supply, erect, dismantle).
  - Maintenance.
  - Furniture, lighting, plumbing, HVAC, etc., as required.
  - Telephone line(s) and distribution to LNG Tank area.
  - One office for PURCHASER's personnel, fully equipped.
  - TANK CONTRACTOR is not required to provide any office space for Management Contractor.

**7.6 TANK CONTRACTOR's Other Temporary Building/Facilities, including, as required:**

- Warehouse & storage area (for TANK CONTRACTOR's supplied materials & equipment).
- TANK CONTRACTOR's workshop & fabrication shop.
- Work and fabrication shops.
- Rest house/guard hut/toilet at Phase 2 Tank Site.
- Fabricated pipe and structural steel storage area.
- Site preparation (clearing and rough grading by PURCHASER)
- Supply, erect, dismantle, etc., all buildings and facilities.
- Maintenance.
- Furniture, lighting, plumbing, HVAC, etc., as required.
- Telephone line(s).
- Necessary equipment/tools.
- Dunnage materials.

**7.7 Other Temporary Facilities / Services**

- All required building permits, approvals, governmental fees, licenses required for safe and proper completion of the Work. (Subject to the limits described in Exhibit B).



- Temporary access to and around TANK CONTRACTOR's Tank construction site shall be by the TANK CONTRACTOR. Refer to the Site Preparation requirements in Section 3.3.
- Construction equipment, including craneage; move in/move out of all equipment.
- Lighting, power to and distribution.
- House keeping.
- Safety/security service.
- Medical services, including first aid dispensary at Site and transportation between Site and hospital.
- Daily Transportation to/from Site, provided that PURCHASER shall ensure that an adequately sized parking area is available for TANK CONTRACTOR personnel within walking distance of the Phase 2 Tank Site.
- Security and guard(s) for the Phase 2 Tank Site and any lay down areas designated for use by TANK CONTRACTOR.
- Garbage disposal.
- Communications.
- Helmet/working clothes/safety shoes/gloves/eye protection equipment.
- Exhaust fans to remove smoke during welding inside of tank. Visible smoke must always be moving toward tank egress.
- Implementation of environmental control plan, as necessary

#### **7.8**

##### **Vehicles**

- Vehicles/buses/jeeps/transporters and similar vehicles.
- Maintenance, repair work, spare parts for all vehicles.

#### **7.9**

##### **Consumables**

- Fuel and lube oil for all construction equipment, vehicles, generators and similar items or equipment.
- Consumable materials.
- Gases (oxygen, acetylene, inert, and similar).

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- Welding rods.
  - Machinery/hand tools and similar tools or equipment.
  - Testing equipment/instruments, tools for inspection.
  - Scaffolding.
  - Safety equipment such as:
    - fire extinguishers, gas detector, other safety instruments.
    - Fireproof/weatherproof sheets

**7.10**

**Steam/Air/Nitrogen**

TANK CONTRACTOR shall supply and provide distribution as required for construction, testing, cleaning and pre-commissioning.

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**LNG STORAGE TANKS  
SP LNG PROJECT, SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT III - INSPECTION AND TESTING REQUIREMENTS**

**LNG STORAGE TANKS  
SP LNG PROJECT, SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT I - PROJECT SPECIFICATIONS**

Revision number of Bechtel specifications shall be updated as attached Exhibit F

<b>SPECIFICATION No.</b>	<b>DESCRIPTION</b>
25027-001-3PS-MTDO-F0001	001 PROJECT SPECIFICATION FOR LNG STORAGE TANKS
25027-001-3BD-M04-00001	00A PROJECT ENGINEERING, BASIS ENGINEERING DESIGN DATA
25027-001-3DR-S04F-00001	000 PROJECT SPECIFICATION FOR GENERAL DESIGN CRITERIA
25027-001-3DR-S04F-00002	000 PROJECT SPECIFICATION FOR STRUCTURES AND FOUNDATIONS DESIGN CRITERIA
25027-001-3PS-DB01-F0001	002 PROJECT SPECIFICATION FOR FURNISHING AND DELIVERING READY-MIX CONCRETE
25027-001-3PS-DB02-F0001	000 PROJECT SPECIFICATION FOR CONCRETE WORK.
25027-001-3PS-DG01-F0001	000 PROJECT SPECIFICATION FOR FURNISHING AND FABRICATING REINFORCING STEEL
25027-001 -3PS- SS01 - F0001	000 PROJECT SPECIFICATION FOR FURNISHING STRUCTURAL STEEL, MISCELLANEOUS STEEL, AND JOISTS
25027-001-3PS-SS02-F0001	000 PROJECT SPECIFICATION FOR ERECTION OF STRUCTURAL STEEL, MISCELLANEOUS STEEL
25027-001-SS-000-00001	000 STRUCTURAL STEEL STANDARDS - GENERAL NOTES & ABBREVIATIONS
25027-001 -SS-000-00008	000 STRUCTURAL STEEL STANDARDS - ANGLE RAILING (SHEET 1 OF 2)
25027-001-SS-000-00009	000 STRUCTURAL STEEL STANDARDS - ANGLE RAILING (SHEET 2 OF 2)

**LNG STORAGE TANKS  
SP LNG PROJECT, SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT I - PROJECT SPECIFICATIONS**

Revision number of Bechtel specifications shall be updated as attached Exhibit F

<b>SPECIFICATION No.</b>		<b>DESCRIPTION</b>
25027-001-SS-000-00010	000	STRUCTURAL STEEL STANDARDS - LADDER DETAILS
25027-001-SS-000-00011	000	STRUCTURAL STEEL STANDARDS - LADDER SAFETY CAGE DETAILS
25027-001-SS-000-00012	000	STRUCTURAL STEEL STANDARDS - STAIR DETAILS (SHEET 1 OF 2)
25027-001-SS-000-00013	000	STRUCTURAL STEEL STANDARDS - STAIR DETAILS (SHEET 2 OF 2)
25027-001-SS-000-00014	000	STRUCTURAL STEEL STANDARDS- GRATING DETAILS
25027-001-DB-000-00001	000	STRUCTURAL STANDARDS- CONCRETE GENERAL NOTES
25027-001-DB-000-00002	000	STRUCTURAL STANDARDS- CONCRETE DETAILS SHEET 1
25027-001-DB-000-00003	000	STRUCTURAL STANDARDS- CONCRETE DETAILS SHEET 2
25027-001-DB-000-00004	000	STRUCTURAL STANDARDS- CONCRETE DETAILS SHEET 3
25027-001-DB-000-00005	000	STRUCTURAL STANDARDS- TYPICAL SECTIONAL DETAILS SHT 1
25027-001-DB-000-00007	000	STRUCTURAL STANDARDS- ANCHOR BOLTS SHT 6
25027-001-3PS-PB00-F0004	00A	PROJECT SPECIFICATION FOR PIPE INSTALLATION AND TESTING
25027-001-3PS-PB00-F0001	002	PROJECT SPECIFICATION, PIPING MATERIALS
25027-001-3PS-PB00-F0002	002	PIPING PURCHASE DESCRIPTIONS
25027-001-3PS-PB00-F0008	00A	PROJECT SPECIFICATION BOLT TENSIONING & BOLT-UP REQUIREMENTS

**LNG STORAGE TANKS  
SP LNG PROJECT, SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT I - PROJECT SPECIFICATIONS**

Revision number of Bechtel specifications shall be updated as attached Exhibit F

<b>SPECIFICATION No.</b>		<b>DESCRIPTION</b>
25027-001-3DR-P40F-00001	00B	PROJECT SPECIFICATION FOR PIPE STRESS AND SUPPORTS DESIGN CRITERIA
25027-001-3DR-P04F-00001	00A	PROJECT SPECIFICATION FOR PLANT DESIGN AND PIPING LAYOUT CRITERIA
25027-001-3PS-JQ00-F0003	000	PROJECT SPECIFICATION FOR WIRING FOR INSTRUMENTS AND COMPUTERS.
25027-001-3PS-JQ06-F0001	000	PROJECT SPECIFICATION FOR GENERAL DESIGN FOR INSTRUMENTATION PACKAGED SYSTEMS
25027-001-3PS-JQ07-F0001	000	PROJECT SPECIFICATION FOR INSTRUMENTATION
25027-001-3DR-E12F-00001	000	DESIGN CRITERIA FOR ELECTRICAL SYSTEMS DESIGN AND INSTALLATION
25027-001-3PS-E00X-F0001	000	PROJECT SPECIFICATION FOR ELECTRICAL EQUIPMENT TESTING AND COMMISSIONING
25027-001-3PS-EKP0-F0001	000	PROJECT SPECIFICATION FOR ELECTRICAL REQUIREMENTS FOR PACKAGED EQUIPMENT
25027-001-3PS-EWE1-F0001	000	PROJECT SPECIFICATION FOR CABLE - LOW VOLTAGE
25027-001-3PS-MUMI-F0001	000	PROJECT SPECIFICATION FOR INDUCTION MOTORS - NEMA FRAME
25027-001-3PS-NX00-F0001	000	PROJECT SPECIFICATION FOR PROTECTIVE COATINGS (PAINT)
25027-001-3PS-NN00-F0002	000	PROJECT SPECIFICATION FOR COLD INSULATION
25027-001-3PS-NX00-F0003	000	GALVANIZED STEEL

**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**PROJECT:** SP LNG PHASE 2 EXPANSION TERMINAL PROJECT  
**LOCATION:** SABINE PASS, LOUISIANA  
**EQUIPMENT:** LNG STORAGE TANKS  
**TAG NO.:** S-104, S-105

**JOB NO: 25027-001**

SPECIFICATION PARAGRAPH REFERENCE	2 DOCUMENT DESCRIPTION	3 DOC. TYPE	4 PERMISSION TO PROCEED (Y/N)	5 SUBMITTAL SCHEDULE			6 LIQ. DAMAGES Y/N	7 REMARKS
				PRELIM	INITIAL	FINAL		
1. CONTRACTUAL (GENERAL)								
EXHIBIT A, GC-2	DESIGNATION OF AUTHORIZED REPRESENTATIVE		N		30BM	BM	N	*30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT A, GC-13	SAFETY AND HEALTH PLAN		Y		20BS	BM	N	*20 DAYS AFTER CONTRACT EXECUTION
EXHIBIT A, GC-14	ENVIRONMENTAL PLAN		Y		30BM	BM	N	*30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-2	INSURANCES		Y		10BM	BM	N	*- 10 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-6	PERMITS AND LICENSES		Y		15BS*	BS	N	*- 15 DAYS BEFORE STARTING WORK
EXHIBIT B, SC-9	SUBCONTRACT SCHEDULE		N		30BM	BM	N	*- 30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-9	MONTHLY UPDATES (INCLUDING SCHEDULE AND JOBHOUR EXPENDITURE)		N		MONTHLY*		N	*- SUBMITTED EVERY MONTH
EXHIBIT B, SC-9	WEEKLY UPDATES (INCLUDING 3-WEEK MANPOWER LOOKAHEAD, 4-WEEK ROLLING SCHEDULE, QUANTITIES INSTALLED, LABOR PRODUCTIVITY)		N		WEEKLY*		N	*- SUBMITTED EVERY WEEK
EXHIBIT B, SC-9	DAILY UPDATES (INCLUDING FORCE REPORT AND PLANT & EQUIPMENT REPORT)		N		DAILY*		N	*- SUBMITTED EVERY DAY
EXHIBIT B, SC-11.A	SAFETY AND HEALTH PROGRAM (FOR JOB SITE AS WELL AS FOR HOME OFFICE)				20BS	BM	N	*- 20 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-11.B	FIRE PROVENTION PROGRAM		N		30BM	BM	N	*- 30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-11.C	SECURITY PROGRAM		N		30BM	BM	N	*- 30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-11.D	HAZARD COMMUNICATION PROGRAM		N		30BM	BM	N	*- 30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-11.E	PROCESS SAFETY MANAGEMENT PLAN		N		30BM	BM	N	*- 30 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-13	PERFORMANCE BANK GUARANTEE		N		10BM	BM	N	*- 10 DAYS AFTER CONTRACT EXECUTION
EXHIBIT B, SC-15	MONTHLY ESTIMATE OF WORK PERFORMED		N		MONTHLY - 20 <sup>TH</sup>		N	*- SUBMITTED ON 20 <sup>TH</sup> OF EACH MONTH
EXHIBIT B, SC-15	INVOICE		N		MONTHLY - 1 <sup>ST</sup>		N	*- SUBMITTED ON 1 <sup>ST</sup> OF EACH MONTH *-NEED TO REVIEW SC-15

**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**PROJECT:** SP LNG PHASE 2 EXPANSION TERMINAL PROJECT

**LOCATION:** SABINE PASS, LOUISIANA

**JOB NO:** 25027-001

**EQUIPMENT:** LNG STORAGE TANKS

**TAG NO.:** S-104, S-105

1 SPECIFICATION PARAGRAPH REFERENCE	2 DOCUMENT DESCRIPTION	3 DOC. TYPE	4 PERMISSION TO PROCEED (Y/N)	5 SUBMITTAL SCHEDULE			6 LIQ. DAMAGES Y/N	7 REMARKS
				PRELIM	INITIAL	FINAL		
	<b>2. ENGINEERING - GENERAL</b>							
Exhibit D 2.10	Index of all Design Calculations, Drawings and other documents.				D (21)			
Exhibit B and C	Schedules, Organization Charts, Manpower Loading,			X				
Exhibit B, SC9	Progress Reports				A			Periodic Progress Reports as agreed
Exhibit D, 2.10	Engineering Specifications.				I			
Exhibit D, 3.14	As-Built				O			
	<b>3. PROCUREMENT</b>							
Exhibit D, 2.10.4	Recommended Spare Parts List for 2 years Operation				D			Within 6 months of Notice of Award
Exhibit B, SC9	Material Procurement & Shop Fabrication Schedules				BS			
Exhibit C, Form C	Subcontractor/Sub vendor list				BS			
Exhibit D, 2.10.4	Unpriced Purchase Orders				BS			
	<b>4. CONSTRUCTION</b>							
Exhibit B and C	Construction Plan & Schedule, Tools/Construction Equipment list, Temporary				BS			
Exhibit D, 3.1, 3.3, 3.4	Construction/Erection Procedure				BS			
Exhibit B	Special Tools/Construction Equipment list				BS			
Exhibit D, 3.1	Temporary Facilities Plan				BS			
Exhibit D, 3.1	<b>5. QUALITY ASSURANCE/CONTROL DOCUMENTS, INCLUDING:</b>				BS			
Exhibit B appendix B-1, Exhibit D, 3.1	Table of Contents for Project Procedures that will be used to control work activities (Management, Project Controls, Engineering, Procurement, Construction, Inspection and Testing, Certification Records).				D (90)			
Exhibit B, C	Quality Plan including QA/QC Manual, Inspection & Testing Plan				BS			
Exhibit D, 3.4 and 3.6	Inspection & Testing Procedures, including NDE & PMI Procedures				BS			



**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**PROJECT:** SP LNG PHASE 2 EXPANSION TERMINAL PROJECT

**LOCATION:** SABINE PASS, LOUISIANA

**JOB NO:** 25027-001

**EQUIPMENT:** LNG STORAGE TANKS

**TAG NO.:** S-104, S-105

1 SPECIFICATION PARAGRAPH REFERENCE	2 DOCUMENT DESCRIPTION	3 DOC. TYPE	4 PERMISSION TO PROCEED (Y/N)	5 SUBMITTAL SCHEDULE			6 LIQ. DAMAGES Y/N	7 REMARKS
				PRELIM	INITIAL S	FINAL		
Exhibit D, 3.4 and 3.6	Material Certificates &/or Mill Test Reports - Before release for Shipment							
Exhibit D, 3.4 and 3.6	Welding Procedures Specifications(WPS) - 3 months prior to start of welding				D (90)			
Exhibit D, 3.4 and 3.6	Welding Procedure Qualification Records (PQR) - 3 months prior to start of welding				D (90)			
Exhibit D, 3.4 and 3.6	Welder/Welding Operator Qualification Records (WQT) - prior to start of welding				BS			
Exhibit D, 2.10.3	Inspection & Test Records - after event				A	X		
Exhibit D, 3.4 and 3.6	Weld Repair Procedures - 3 months prior to start of welding				D (90)			
Exhibit B, Appen B1-A	Certification Dossiers including preparation procedure				O			
Exhibit D, 2.10.3	PMI Test Reports				I/W			
<b>5. CIVIL/STRUCTURAL</b>								
Exhibit D, 2.5	Submit “Seismic Design Basis / Methodology” for PURCHASER review and approval prior to beginning the seismic analysis / design of the tank / pile foundation.		Y		D			
Exhibit D, 2.5	Foundation Engineering Plan, including Design Concept			X				
Exhibit D, 2.1, 2.5	Pile Design Calculations & Load Test Program (if piles are required)				BS			
Exhibit D, 2.1, 2.5	Design Calculations for Foundations and Foundation Drawings				BS	X		
Exhibit D, 3.3	Piling test reports				A			
Exhibit D, 3.3	Piling Plan				BS			
Exhibit D, 2.5	Concrete Specification				BS			
Exhibit D, 2.5, 3.3	Pile Testing procedure				D (90)			
Exhibit D, 3.4	<b>Concrete test Reports</b>				A			

**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**PROJECT:** SP LNG PHASE 2 EXPANSION TERMINAL PROJECT

**LOCATION:** SABINE PASS, LOUISIANA

**JOB NO:** 25027-001

**EQUIPMENT:** LNG STORAGE TANKS

**TAG NO.:** S-104, S-105

1 SPECIFICATION PARAGRAPH REFERENCE	2 DOCUMENT DESCRIPTION	3 DOC. TYPE	4 PERMISSION TO PROCEED (Y/N)	5 SUBMITTAL SCHEDULE			6 LIQ. DAMAGES Y/N	7 REMARKS
				PRELIM	INITIAL	FINAL		
Exhibit D, 2.3	<b>6. TANK/PIPING</b> Tank Outline Drawings showing diameter, height, net working capacity, material, plate thickness, roof style, & insulation system			X	D (30)	X		
Exhibit D, 2.6	Allowable Nozzle Loads				I			
Exhibit D, 2.6	Piping Plans/Sections				I	X		
Exhibit D, 2.6, 3.6	Tie-in List & Location Plan				BS	X		
Exhibit D, 2.6	Platform Drawings				I	X		
Exhibit D, 2.6	Piping Isometrics				I	X		
Exhibit D, 3.4, 3.6	Field Assembly Procedure, Inspection & Testing Plan				BS			
Exhibit D, 3.4, 3.6	Inspection & Testing Procedures including Welding, & NDE				I			
Exhibit D, 2.4	Detail of Trolley & Hoist Design				BS			
Exhibit D, 2.7	Temp. Monitoring System - Design Details				BS			
Exhibit D, 2.1	Purge & Vent System - Design Details				BS			
Exhibit D, 2.1	Tank Design Calculations				BS			
Exhibit D, 2.1	Design Calculation for all Appurtenances and Accessories including Piping & Relief Valves				BS			
Exhibit D, 2.10.1	Material Specifications				BS			
Exhibit D, 2.1	Fabrication & Construction Drawings: Tanks, Piping & Accessories				BS	X		
Exhibit D, 7.1	Procedures for Shop Fabrication, Field Construction, Insulation, Painting, Tank Calibration.				BS			
	<b>7. INSTRUMENTATION</b>							
Exhibit D, 2.10.3	Instrument Data Sheets (ISA Standard)				BS	X		
Exhibit D, 2.10.1	Layout & Installation Drawings of Instruments, Cables, & Junction Boxes				BS	X		

**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**PROJECT: SP LNG PHASE 2 EXPANSION TERMINAL PROJECT**

**LOCATION: SABINE PASS, LOUISIANA**

**JOB NO: 25027-001**

**EQUIPMENT: LNG STORAGE TANKS**

**TAG NO.: S-104, S-105**

1 SPECIFICATION PARAGRAPH REFERENCE	2 DOCUMENT DESCRIPTION	3 DOC. TYPE	4 PERMISSION TO PROCEED (Y/N)	5 SUBMITTAL SCHEDULE			6 LIQ. DAMAGES Y/N	7 REMARKS
				PRELIM	INITIAL	FINAL		
Exhibit D, 2.10.1	Instrument Wiring Termination Dwgs, Loop Diagrams and Single Line Diagrams				BS	X		
Exhibit D, 2.7	System Testing Procedures Data Acquisition System Data and Dwgs				BS			
Exhibit D, 2.10.2	Instrument Operation Maintenance and Configuration Manuals				S			
Exhibit D, 3.10	Calibration Testing Reports				A	X		
<b>8. ELECTRICAL</b>								
Exhibit D, 2.8.9	Area Classification Drawings (Plan and Elevations)			X				
Exhibit D, 2.8.7	Electrical Load List - Name Plate, Operating, Spare (kW, Volts, PF, ph, Hz)			X				
Exhibit D, 2.8.9	Electrical Schematic Diagrams				BS	X		
Exhibit D, 2.8.9	Electrical Wiring Diagrams including connection diagrams for junction boxes				BS	X		
Exhibit D, 2.8.9	Electrical cable tray layouts				BS	X		
Exhibit D, 2.8.9	Dimensional Outline drawings showing location of all major electrical equipment including junction boxes and panel boards.				BS	X		
Exhibit D, 2.8.9	Location and size of PURCHASER'S connections to TANK CONTRACTOR'S junction boxes				BS	X		
Exhibit D, 2.8.9	Electrical Interface Details: LNG Tank and LNG Pump Motors, e.g. cables, terminations, junction boxes				BS	X		
Exhibit D, 2.8.9	Electrical lighting and socket outlet layout and wiring diagrams				BS	X		
Exhibit D, 2.8.9	Earthing Diagram				BS	X		
Exhibit D, 2.8.9	Lightning Protection Diagram				BS	X		
Exhibit D, 2.8.9	Detailed Bill of Material including name of manufacturer, catalog number of all components and catalog cut sheets				BS	X		
Exhibit D, 2.8.9	Electrical testing Procedures				BS			
Exhibit D, 2.8.9	Certified Test Reports				S	X		

**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**PROJECT:** SP LNG PHASE 2 EXPANSION TERMINAL PROJECT

**LOCATION:** SABINE PASS, LOUISIANA

**JOB NO:** 25027-001

**EQUIPMENT:** LNG STORAGE TANKS

**TAG NO.:** S-104, S-105

1 SPECIFICATION PARAGRAPH REFERENCE	2 DOCUMENT DESCRIPTION	3 DOC. TYPE	4 PERMISSION TO PROCEED (Y/N)	5 SUBMITTAL SCHEDULE			6 LIQ. DAMAGES Y/N	7 REMARKS
				PRELIM	INITIAL	FINAL		
	<b>9. PRE-COMMISSIONING/PURGING</b>							
Exhibit D, 4.1	System Testing & Commissioning Schedule			BS				
Exhibit D, 3.4	Hydrotest / pneumatic test Procedures			D				6 months after contract award
Exhibit D, 4.1.4	Drying & Purging Procedures			BS				
Exhibit D, 4.1.9	Recommended Cooldown Procedure			BS				
Exhibit D, 2.3	Heat Leak and Boil-Off Calculations			D (30)				
Exhibit D, 4.1	Recommended Decommissioning Procedure						X	
Exhibit D, 2.10, 2.10.3	Installation, Operation & Maintenance Manuals						X	
Exhibit D, 4.1	Spare Parts List for Construction & Precommissioning							Within 6 months of Notice of Award

**SUPPLIER SHALL PROVIDE A MASTER COPY, WHICH CAN BE LEGIBLY DUPLICATED BY MICROPRODUCTION, DIAZO OR ELECTROSTATIC PROCESS, AND 6 COPIES (EXCLUDING INSTRUCTION MANUALS AS SPECIFIED IN REMARKS COLUMN).**

Column 3	Document Type - Bechtel Specific							
Column 4	Prior Permission to Proceed Required - Bechtel permission to proceed required prior to use of documents in the design, fabrication, installation or other work process. Permission to proceed does not constitute acceptance or approval of design details, calculations, analyses, test methods or material developed or selected by the Supplier and does not relieve Supplier from full compliance with contractual obligations.							
Column 5	Ac - After Completion    I - Before installation    A - After Installation W - With Shipment    S - Before Shipment    P - Before final payment D - Before Design OR Expressed in calendar days after notice of award    O - With O&M Manual BM - Before Mobilization    BS - Before starting relevant work  Preliminary - Early submittal of information as specifically identified, (foundation load data, preliminary general arrangements, etc.) Initial - Initial submittal of a document in accordance with the schedule mutually agreed to by the Buyer and the Supplier. Initial drawings requiring review must show all information necessary for Buyer's design of foundations and any other connection for equipment. Drawings will be reviewed only as to arrangement and conformance with the specifications and related drawings. [Drawings must show Buyer's job title, job number, purchase order number, line, equipment, tag or code number and the manufacturer's serial number(s)]. Final - The complete submittal required. (This submittal shall include all "as-built" data.)							
Column 6	Liq. Damages - Y/N to be assigned in Column 6. Assessed values per item as defined in the purchase order.							
	8. TITLE	9. JOB NO.						
	LNG TANKS	10. REQUISITION NO.						
		Rev. 000						

**SUPPLIER DOCUMENT SUBMITTAL REQUIREMENTS**

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**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT “D” - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**1.0 GENERAL REQUIREMENTS**

TANK CONTRACTOR shall submit all required drawings and data to PURCHASER in the manner and within the time limits specified below.

All drawings and data shall be transmitted to PURCHASER via electronic exchange (eRoom) and/or by hard copy when there are a specified number of hard copies required.

**2.0 EQUIPMENT/COMPONENT DRAWINGS AND DATA**

These drawings and data shall include, but not be limited to all basic design criteria, general arrangement and outline dimensions, utility requirements, electrical single line, schematic, P&IDs, control diagrams, maintenance and operating space requirements, cross sections and material lists, performance characteristic curves, calculations and completed Data Sheets. In addition to these items, the specific data requirements are as defined in the attached forms.

**3.0 RECOMMENDED SPARE PARTS**

TANK CONTRACTOR shall submit complete recommended spare parts lists. The lists shall include:

- Part description and number (in sufficient detail to order, to include size, material, etc.);
- Recommended quantity of each spare part for FAT, SIT, installation/commissioning and for two years operation;
- Recommended quantities of special tools or instruments required for maintenance;
- Recommended quantities of consumable items;
- Unit cost of each part (note - sets, part, etc.);
- Supplier's name and other company information (address, etc.);
- Supplier's identification (shop order numbers, etc.) if applicable; and
- Validity and basis of price quotation.

TANK CONTRACTOR shall state any necessary additional information required to fabricate or locate a part (serial numbers, tag numbers, etc.) to facilitate ordering.

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**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

**4.0 DOCUMENT TRANSMITTAL ADDRESS**

TANK CONTRACTOR shall submit all documents to the following address:

Electronic submittal

[\_\_\_\_\_]

Hard copy submittal

**Sabine Pass LNG, L.P.**  
717 Texas Avenue, Suite 3100  
Houston, Texas 77002  
Facsimile Number: 713-659-5459  
Attn: Ed Lehotsky

and      Bechtel Corporation  
3000 Post Oak Boulevard  
Houston, TX 77056-6503

**5.0 DRAWING AND DATA REQUIREMENTS**

TANK CONTRACTOR will be required to comply with the following drawing and data requirements:

- A. Drawings and data submitted by TANK CONTRACTOR shall be in electronic format (see Paragraph 5.0J). Where this is not possible, the drawings submitted by the TANK CONTRACTOR will be electronically scanned and/or microfilmed, therefore, TANK CONTRACTOR and any of his subsuppliers must submit the type of reproduction specified in the following paragraphs.
- B. All drawings submitted must have light, clear backgrounds with sharp, opaque object, definition lines, and noncrowded dimensioning and lettering. Each drawing shall be suitable for microfilming at a 30 to 1 reduction and then enlarged to full size. Reproducibles shall be black-on-white, such as Xerox 1860 vellum. All reproducibles for originals, which are 11 inch by 17 inch and smaller may be photo copies on plain bond paper. Sepias are not acceptable.  
Drawings must be flat or rolled, not folded.
- C. Catalog cuts, typed material and other nonpictorial data shall be black-on-white. Images shall be sharp and clear to allow further legible reproduction by PURCHASER. Second, third, etc., generation copies are not acceptable.

**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

- D. Documents not meeting the above requirements will be rejected for resubmittal and any added costs incurred by PURCHASER as a result of poor drawings will be backcharged to TANK CONTRACTOR.
- E. All documents must show, in the lower right hand corner, job number, equipment tag number, PURCHASER'S subcontract number, drawing number, revision number, TANK CONTRACTOR'S title, equipment service, PURCHASER'S name, project title, long file save name with extension and project location.
- F. Documents with multiple sheets, such as calculations, must be resubmitted as a complete document. Revised single sheets will not be accepted
- G. Resubmittal of documents requires the same number of prints and reproducibles as the first submittal.
- H. TANK CONTRACTOR shall not submit unchecked drawings, calculations, and data for review. All unchecked materials will be returned to the TANK CONTRACTOR without review or acceptance with a request to resubmit on a completely checked basis. Any resulting price or schedule impact shall be the TANK CONTRACTOR'S responsibility.
- I. When applicable, TANK CONTRACTOR shall provide professional engineering stamps on appropriate documents.
- J. If the drawings and data submitted by TANK CONTRACTOR have been prepared using one of the following formats:

<u>Application Type</u>	<u>Standard Application</u>	<u>File Extension</u>
Word Processor	MS Word 97	.doc
Spreadsheet	MS Excel 97	.xls
Presentation Software	<b>MS PowerPoint 97</b>	.ppt
Data Base	MS Access 97	.mdb
CADD	Bentley Microstation 3E Rel	.dgn
	AutoCAD 2002	.dwg
	Common data exchange format	.dxf
Graphic Format	TIFF Group IV	.tif
	TIFF LZW or JPEG Compressed	.jpg
	HPGL/2	.plt
Portable Document Format	Adobe Acrobat 4.0	.pdf

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**LNG STORAGE TANKS  
SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT II - DRAWING AND DATA REQUIREMENTS**

TANK CONTRACTOR shall also submit an electronic copy (in one of the media given below) of the drawings/data in the original electronic format. Acceptable media for the electronic copies is as follows:

- electronic file in original application format via the Bechtel eRoom System
- on CDROM using ISO 9660 or Joliet format and readable from Windows 95/98 or NT 4.0 based PC.

If TANK CONTRACTOR does not use the above applications and cannot save the file in one of the above formats then TANK CONTRACTOR shall save it or scan it into a portable document format. This portable document format is a .pdf file with UNCOMPRESSED ASCII text, (i.e. text searchable) created using Adobe Acrobat. Files from DOS or other platforms for which Adobe Acrobat writers are not available will need to be submitted in an ASCII text version along with a physical copy of the document, which will be scanned.

TANK CONTRACTOR shall obtain Adobe Acrobat 3.0 or later for Windows (also available for Mac) to create the files from TANK CONTRACTOR'S existing applications where TANK CONTRACTOR does not use one of the above mentioned formats.

If TANK CONTRACTOR does not use one of the above applications and obtaining Adobe Acrobat is not a viable option, TANK CONTRACTOR shall submit a list of the formats TANK CONTRACTOR uses.

**6.0 DRAWING REVIEW**

- A. Drawings and documents submitted for PURCHASER'S review will be returned to TANK CONTRACTOR with two (2) stickers on each document. One (1) sticker will indicate the equipment tag number and PURCHASER'S TANK CONTRACTOR print log number. The second sticker will indicate, by mark, one (1) of the following review codes:

Code 1      **Work may proceed.**

Code 2      Revise and resubmit. Work may proceed subject to incorporation of changes indicated



LNG STORAGE TANKS  
SABINE PASS TERMINAL

EXHIBIT "D" - SCOPE OF WORK

ATTACHMENT II - DRAWING AND DATA REQUIREMENTS

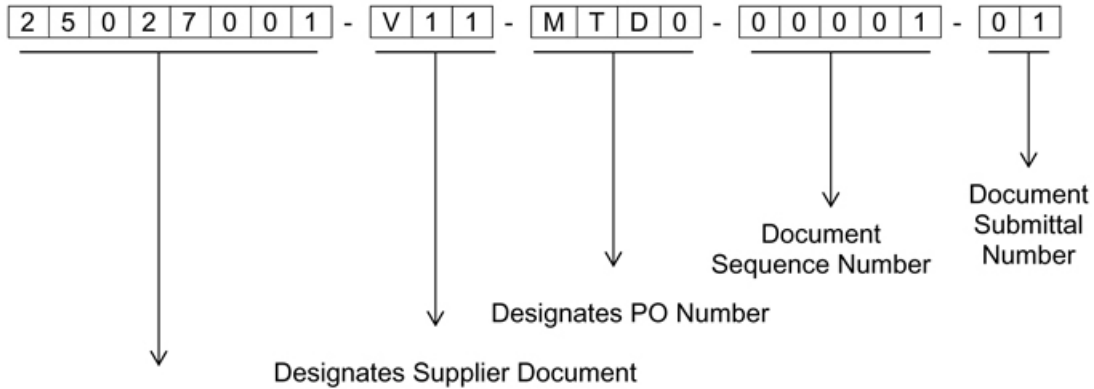
Code 3      **Revise and resubmit. Work may not proceed.**

Code 4      Review not required. Work may proceed.

Although work may proceed on receipt of a drawing with a Code 2 notation, TANK CONTRACTOR must resolve the comments indicated, resubmit and obtain a Code 1 notation. Any drawing or document receiving a review Code 2 or 3 must be resubmitted until it achieves either a Code 1 or 4 review status. **Final invoice will not be processed until all drawings and documentation requirements are fulfilled**

- B. All TANK CONTRACTOR data will be logged in and assigned a unique log number by PURCHASER. Subsequent submittals of the same documents will receive the same log number, which was assigned to the initial submittal, except that the submittal number will be changed.

For example, the initial drawing received would be assigned:



**PURCHASER'S Job Number**

On subsequent submittals, only the submittal will change. If the TANK CONTRACTOR incorporates this data into a manual, the data becomes part of the manual and the manual is logged in and assigned its own log number. Code 1 or 4 approval of a manual does not eliminate the requirements for all individually submitted documents to receive a Code 1 or 4 review code.

LNG STORAGE TANKS  
SABINE PASS TERMINAL

EXHIBIT "D" - SCOPE OF WORK

ATTACHMENT II - DRAWING AND DATA REQUIREMENTS

Status and Log Sticker Sample

<input type="checkbox"/> (1)	Work May Proceed.	DATE RECEIVED:	DWG. STATUS
<input type="checkbox"/> (2)	Revise & Resubmit. Work May Proceed. Subject to Incorporation of Changes indicated.	IMPORTANT: Permission to proceed does not constitute acceptance or approval of design details, calculations, analyses. test methods or materials developed or selected by the supplier and does not relieve supplier from full compliance with contractual obligations.	SIGNED _____
<input type="checkbox"/> (2b)	Revise. Incorporate Changes as indicated. Resubmittal not Required. Work May Proceed.		
<input type="checkbox"/> (3)	Revise & Resubmit. Work May Not Proceed.		DATE _____
<input type="checkbox"/> (4)	Review Not Required. Work May Proceed.		BECHTEL

It has not been determined if a second sticker like this will be used. This sticker is to track resubmittal reasons.

JOB & V.P. NO

EQUIP. NO.

1. Reason for Resubmittal Design    ☐ Supplier Design    ☐ Supplier Correction    ☐ Client Required    ☐ Not Necessary
- C. Drawings or data returned to TANK CONTRACTOR for revision must be resubmitted within fifteen (15) calendar days after receipt. **Resubmittals shall retain original number and be clearly marked with revision triangles enclosing the revision number. The revision triangles shall remain as a permanent part of the document.** Correspondence accompanying revised drawings and data must show TANK CONTRACTOR print log number.
- D. TANK CONTRACTOR shall evaluate PURCHASER comments and incorporate them in a technically sound manner without affecting the progress of the Work. TANK CONTRACTOR shall request clarification or suggest alternatives where questions of technical feasibility arise.
- E. TANK CONTRACTOR shall save incoming documents to a shared server within their entity upon receipt of notification

**LNG STORAGE TANKS  
SP LNG PROJECT, SABINE PASS TERMINAL**

**EXHIBIT "D" - SCOPE OF WORK**

**ATTACHMENT III - INSPECTION AND TESTING REQUIREMENTS**

<u>No.</u>	<u>TITLE</u>	<u>BY TANK CONTRACTOR</u>	<u>PURCHASER WITNESSED</u>	<u>DOC'D RESULTS TO PURCHASER</u>	<u>PURCHASER COMMENTS</u>
	<b>Fabrication &amp; Erection</b>				
	Material Certificates	Yes		Yes	
	Joint Preparation/Fit-Up	Yes	Yes		
	Dimensional Check	Yes	Yes	Yes	
	Nozzle Flange Finish	Yes	Yes		
	Visual Examination	Yes	Yes	Yes	
	Vacuum Box Testing	Yes	Yes	Yes	
	Radiograph	Yes	Yes	Yes	
	Liquid Penetrant Examination	Yes	Yes	Yes	
	Magnetic Particle Examination	Yes	Yes	Yes	
	Alloy Verification	Yes	Yes	Yes	
	Leak Testing	Yes	Yes	Yes	
	Hydrotest - Pump Column	Yes	Yes	Yes	
	Pneumatic Test - Piping	Yes	Yes	Yes	
	Coating/Painting/Cleaning	Yes	Yes	Yes	
	Level Survey	Yes	Yes	Yes	
	<b>After Completion of Erection</b>				
	Inspection Prior to Hydrotest/Pneumatic Test	Yes	Yes	Yes	
	Hydrotest - Inner Tank	Yes	Yes	Yes	
	Pneumatic Test - Outer Tank	Yes	Yes	Yes	
	Inspection for Insulation	Yes	Yes	Yes	
	Clean Up and Final Grading	Yes	Yes	Yes	
	Purging of Tank with Nitrogen	Yes	Yes	Yes	
	Inspection and Testing of Lighting and Socket Outlets	Yes	Yes	Yes	
	Inspection and Testing of Aircraft Obstruction Lighting System	Yes	Yes	Yes	
	Inspection and Testing of Grounding System	Yes	Yes	Yes	

EXHIBIT ‘E’  
FOR  
LNG TANKS

003	7/19/05	
002		REVISED AS NOTED
001	5/12/05	REVISED WHERE NOTED, ISSUED FOR CONTRACT
000		ISSUED FOR SUBCONTRACT

NO	DATE	REASON FOR REVISION
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EXHIBIT “E”  
FOR  
LNG TANKS

SP LNG PHASE 2 EXPANSION TERMINAL PROJECT

TW	GGG		
GGG	KA	TW	SO
GGG	KA	TW	SO
BY	CK'D	APPR	APPR

JOB NO.	
SUB CONTRACT NO.	REV.
	003

## LNG STORAGE TANKS

### SP LNG PROJECT, SABINE PASS TERMINAL

#### EXHIBIT “E” - DATA SHEETS AND DRAWINGS

##### TANK DATA SHEET

25027-001-MTD-24-0S101

REV	DESCRIPTION
001	Data Sheet for LNG Storage Tanks



##### DRAWINGS & DOCUMENTS

M6-24-00210

REV	DESCRIPTION
000	Piping and Instrumentation Diagram – LNG Storage Tank S-101 Feed Lines



M6-24-00211

000	Piping and Instrumentation Diagram – LNG Storage Tank S-101 In-Tank Pumps & Discharge Lines
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M6-24-00212

000	Piping and Instrumentation Diagram – LNG Storage Tank S-101 Instruments
-----	-------------------------------------------------------------------------



M6-24-00220

000	Piping and Instrumentation Diagram – LNG Storage Tank S-102 Feed Lines
-----	------------------------------------------------------------------------



M6-24-00221

000	Piping and Instrumentation Diagram – LNG Storage Tank S-102 In-Tank Pumps & Discharge Lines
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M6-24-00222

000	Piping and Instrumentation Diagram – LNG Storage Tank S-102 Instruments
-----	-------------------------------------------------------------------------



M6-24-00230

000	Piping and Instrumentation Diagram – LNG Storage Tank S-103 Feed Lines
-----	------------------------------------------------------------------------



M6-24-00231

000	Piping and Instrumentation Diagram – LNG Storage Tank S-103 In-Tank Pumps & Discharge Lines
-----	---------------------------------------------------------------------------------------------



M6-24-00232

000	Piping and Instrumentation Diagram – LNG Storage Tank S-103 Instruments
-----	-------------------------------------------------------------------------



P1-00-00001

00D	Site Plan – Sabine Pass, Louisiana
-----	------------------------------------



100-SK-100

P	Tank Top Layout – Sabine Pass, Louisiana
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DRAWINGS & DOCUMENTS	REV	DESCRIPTION
PIK-SC-0002	0	Toulney-Wong Geotechnical Investigation Report For Sabine Pass and Corpus Christi (Previously Provided by B&V)  Site Specific Response Spectra Cheniere LNG Project, Sabine Pass and Corpus Christi (Previously Provided by B&V)  Phase 2 Expansion Site Plan dated on 11 July 2006
EXHIBIT – E July 19		Rev 003 <span style="float: right;">Page 3 Of 3</span>

EXHIBIT 'F'  
FOR  
LNG TANKS

[Updated Bechtel Technical specification List as of June 23 2006]

July19 2006

003	19 July 06	
002	23 Jun.06	Updated
001	28 Oct.05	Updated
000		ISSUED FOR PROPOSAL

<u>NO</u>	<u>DATE</u>	<u>REASON FOR REVISION</u>	<u>BY</u>	<u>CK'D</u>	<u>APPR</u>	<u>APPR</u>
		Updated Bechtel Technical specification List as of 23 June. 2006				REV.
		SP LNG PHASE 2 EXPANSION TERMINAL PROJECT				003

EXHIBIT ‘G’

FOR

LNG TANKS

[RFI (Request for Information) List]

July 19

003	19 July 06	
002	23 June. 06	Added the latest RFI
001	18 Nov. 05	Added 64, 65 and Listed
000		ISSUED FOR PROPOSAL

<u>NO</u>	<u>DATE</u>	<u>REASON FOR REVISION</u>	<u>BY</u>	<u>CK'D</u>	<u>APPR</u>	<u>APPR</u>
		RFI (Request for Information) List				<u>REV.</u>
SP LNG PHASE 2 EXPANSION TERMINAL PROJECT						003




RFI No.	DATE	DESCRIPTION	REVISION	currently	REPLY DATE	REQUEST FOR INFORMATION (RFI)			INFORMATION TO SUBCONTRACTOR
						INFORMATION REQUESTED	REASON REQUESTED	IMPACT	
25	7/11/2005	Approval of the Pile Cap Top of Foundation	120' was changed to 118'-6" (Oct2005)		7/12/2005	1. Approval of the top of the pile cap foundation level by MHI	Top of the pile cap foundation level is established at EL 120'. This is based on the information from Bechtel indicating that the highest grade at the tank locations is at EL 114'. Establishing the grade at this elevation would meet two requirements : 1. Minimum air gap below the foundation at 3'-0" 2. Mimi height of 5' per Bechtel document 25027-001-3BD-M04-00001REV 00A, February 2005, Page 4 of 9	1. Estimation of the production pile cut off locations. 2. Pile Cap Design	MHI request to establish the top of pile cap at elevation 120' I approved 118ft6" inches, Bechtel "tie-in at BL" drawing comment (October 2005)
26	7/5/2005	P&ID Clarification		Bechtel approved PDS 90% Model at Mar 28, 2006	7/12/2005	MHI would like clarification on the following items on the P&ID. 1> MHI would like to change the location of pressure gauge as attached file. {Attachment-1,2} MHI is planning 3-D Model for piping. Based on our piping layout, the changed layout is simpler and better. Please check the P&ID 2> Please provide us the insulation area of PRV According to Bechtel Spec, PRV do not have insulation, but Piping of PRV have it. 3> We would like to confirm "HV Valve to be mounted on top of tank" (Attachment-3) Which does this mean ? :  The highest point in LNG filling piping or in all process piping on support tower ?		Cost	1. Bechtel reviewed the proposed alternative. As a result it is acceptable. 2. PSV Piping Insulation. On other Bechtel projects the insulation extended 1.5M in length. 3. The highest point LNG filling piping.
27	7/5/2005	Piping & Valve Material Specification			7/12/2005	Please provide us data about using the "Bechtel Code". Details of the "Bechtel Code" are not mentioned else where in this project (Attachment-1).		Cost	Piping and Valve Material Specifications : Bechtel specification 25027-001-3PS-PB00-F0002 provides the detailed material descriptions. This specification was placed into the eRoom today.
28	7/5/2005	Piping & Valve Material Specification			7/12/2005	Please provide us the valve specification for Bechtel standard		Cost	Piping and Valve Material Specifications : Bechtel specification 25027-001-3PS-PB00-F0002 provides the detailed material descriptions. This specification was placed into the eRoom today.
29	7/5/2005	Tank Temperature Elements			7/18/2005	Due to Bechtel's comment, some temperature sensors will be revised as follow; 1)Cool-down sensors will be changed from T/C to RTD. 2)Temperature sensors for PRV will be changed from RTD to T/C. (Attachment-1,2)		Cost	Bechtel confirmed that all temperature sensors for LNG tank applications are RTD except for the temperature sensors for PRV discharge are thermocouple type. Duplex thermocouple is also required for PRV discharge as this may be potentially a flare application.

30	7/5/2005	Duplex Temperature Elements	The temperature sensors are duplex type. (July 2004)	7/18/2005	MHI would like to clarify Bechtel's request that all temperature measurement shall be provided with dual elements (duplex type. (Page 14 of 42) (Attachment-1,2) MHI propose an idea as per Attachment-3.	Cost	<p>All of these sensors can be redistributed eventually and routed from the existing tank nozzles (FT1(12"), FT2(12"), FT3A(8") &amp; FT3B(8") to avoid additional tank nozzles that may be required. TE-24040 (Vapor space), TE-24024 (Feed line) and TE-24005A/B/C (Pump disch. lines) shown in MHIattachment 2 are located outside of tank and do not need to route via the four tank nozzles. MHI is to further advise. The temperature sensors at the PRV discharge also need to be duplex type thermocouple for possible flare application.</p> <p>The temperature sensors located inside of tank are welding pad type and will be enclosed in the tank structure or insulation. They cannot be accessed for maintenance during the operation. Therefore, duplex type is required. All of these sensors can be redistributed eventually and routed from the existing tank nozzles (FT1(12"), FT2(12"), FT3A(8") &amp; FT3B(8") to avoid additional tank nozzles that may be required. TE-24040 (Vapor space), TE-24024 (Feed line) and TE-24005A/B/C (Pump disch. lines) shown in MHIattachment 2 are located outside of tank and do not need to route via the four tank nozzles. MHI is to further advise. The temperature sensors at the PRV discharge also need to be duplex type themocouple for possible flare application. REV01. The MHI proposal - Attachment 4 is not acceptable. Dual element RTDs have always been required by the Bechtel specification and will have a very little impact on MHI. The sheath for the RTDs goes all the way from the point of measurement to the flanged connections. Therefore if we have two RTDs in a single sheath there is no additional work inside the tank containment area.</p>
30R1	8/11/2005	Duplex Temperature Elements	R1	8/12/2005	<p>MHI would like to clarify Bechtel's request that all temperature measurement shall be provided with dual elements (duplex type. (Page 14 of 42) (Attachment-1,2) MHI propose an idea as per Attachment-3. MHI would like to clarify the specification of temperature sensors for cool down as shown Attachment 3(rev1). The cool down sensors will use only once or a few times so that they can be single element. Please review Bechtel's requirement and our proposal of temperature sensor including cool down sensors (Attachment-4).</p>	Cost	

There will be a small purchase price increase for dual elements and the termination heads will be larger. Note that we are not requiring MHI/Matrix to wire these spares from the the RTD heads to the Junction boxes so there will be no additional wiring or increase in JB size. If and RTD were to fail and the spare was required, the termination change would take place in the RTD head not the junction box. The spares will be physically tagged (inside the RTD head) with the same numbers as the parent tag with the suffix "(Spare)". We have relayed this in our comments on the MHI documents. These spare tags will not appear in the Intools Database. However the parent tag will have a comment in the remarks section of intools indicating that a spare is available if required. The temperature sensors at the PRV discharge also need to be duplex type thermocouple for possible flare application. We received a package from MHI to review and one of the documents was the "Purchase Specification of Tank Temperature Instruments." Be aware that MHI specified single element for the cooldown RTDs.

We commented that they should be dual elements. Ref. VTPL-00082, 25027-001-V11-MTD0-00073.

RFI No.	DATE	DESCRIPTION	REVISION	currently	REPLY DATE	REQUEST FOR INFORMATION (RFI)			INFORMATION TO SUBCONTRACTOR
						INFORMATION REQUESTED	REASON REQUESTED	IMPACT	
30R2	8/22/2005	Duplex Temperature Elements	R2		-	<p>MHI would like to clarify Bechtel's request that all temperature measurement shall be provided with dual elements (duplex type. (Page 14 of 42) (Attachment-1,2) MHI propose an idea as per Attachment-3. {rev.1} MHI would like to clarify the specification of temperature sensors for cooldown as shown Attachment 3(rev1). The cooldown sensors will use only once or a few times so that they can be single element. Please review Bechtel's requirement and our proposal of temperature sensor including cooldown sensors (Attachment-4). {rev.2} We would like to know how many temperature sensors are required for cool down monitoring, which is executed only one time at commissioning for tank life. We think 13 sensors for side wall, 11 sensors for bottom plate and 5 sensors for suspended deck is good enough even if these sensors are required to be duplicated. We will provide "Recommended Cool down Procedure" as specified in Exhibit D Base on our experience, we do not need too much numbers of cool down sensors. In general tank has around 5 sensors for side-wall, around 5 sensors for bottom, and 3</p> <p>sensors for deck plate. We could not find duplex requirement of cool-down sensor in Tank Instrument Specification (Attachment 5), Overall Instrument specification requires duplex temperature sensor but we do not think temporary use sensor like cool-down sensor need to be duplex</p>	Cost		<p>The temperature sensors located inside of tank are welding pad type and will be enclosed in the tank structure or insulation. They cannot be accessed for maintenance during the operation. Therefore, duplex type is required. All of these sensors can be redistributed evenly and routed from the existing tank nozzles (FT1(12"), FT2(12"), FT3A(8") &amp; FT3B(8") to avoid additional tank nozzles that may be required. TE-24040 (Vapor space), TE-24024 (Feed line) and TE-24005A/B/C (Pump disch. lines) shown in MHI attachment 2 are located outside of tank and do not need to route via the four tank nozzles. MHI is to further advise. The temperature sensors at the PRV discharge also need to be duplex type thermocouple for possible flare application.</p> <p>Temperature</p>  <p>It is correct. The above sketch is correct if the 1st junction for both Tes is outside of the tank. Duplex (pme primary and one spare) temperature sensors shall be all brought out of tank and terminated in a temperature sensor head or a junction box for access and spare change over if the primary one is not working. Form that temperature head or junction box (the first junction) only one pair of RTD/TC cable is required to be wired back to another field JB or the control room. The duplex sensor tag no. shall be e.g.24031AA and 24031AB and the loop No. is 24031A.</p>
31	7/5/2005	Duplex Temperature Elements			7/18/2005	<p>MHI would like to clarify how to use 2 elements of temperatures sensor except for leak detection sensor (TE-24034A-G). One of for ordinary monitoring, the other is for spare as same as leak detection sensor (TE-24034A-G) ?(Page 14 of 42) (Attachment-1).</p>	Cost		<p>It is correct. The above sketch is correct if the 1st junction for both Tes is outside of the tank. Duplex (pme primary and one spare) temperature sensors shall be all brought out of tank and terminated in a temperature sensor head or a junction box for access and spare change over if the primary one is not working. Form that temperature head or junction box (the first junction) only one pair of RTD/TC cable is required to be wired back to another field JB or the control room. The duplex sensor tag no. shall be e.g.24031AA and 24031AB and the loop No. is 24031A.</p>
32	7/5/2005	Radar Level Instrument			7/12/2005	<p>MHI would like to clarify if the type of level gauge LT-24041 is Radar Type (Attachment-1.</p>	Cost		<p>YES. It is Radar type.</p>
33	7/5/2005	Missing Specification Page			7/12/2005	<p>MHI would like to provide missing page between page 26 and 27.</p>			<p>The document was re-scanned and re-entered into eRoom with the missing pages.</p>

34	7/5/2005	Line Number Information		7/12/2005	MHI would like to know Line No, for tank S-102 and S-103 to complete the Instrument List, TAG No. for those tanks were provided in this document (Attachment-1).			Bechtel will provide Tag no. line no. with IFD P&ID by 29th July.
35	7/12/2005	Discretionary Vent	Bechtel approved discretionary vent based on PDS 90% Model at Mar 28, 2006	7/18/2005	MHI were requested to prepare an updated cost estimate for Discretionary Vent by E-mail from Bechtel on 11th July 2005. MHI would like to clarify some items for above. (Please refer Attachment-1).	Cost		1. The 30"BOG control valve is not installed on the tanks. The valve is down in the pipe rack within Bechtel's scope. 2. A) Not in MHI scope. B) Supplied by Bechtel / installed by MHI. C) Supplied and installed by MHI. D) Supplied and installed by MHI. 3. MHI requested that nozzles K2A-D be 12". Bechtel approved and is changing the P&ID to 12".
36	7/13/2005	coating Spec. for Test Piles	MHI/Zachry does not perform the coating for pile	7/18/2005	Coating specification for test piles.	MHI would like to use test piles for production piles also. Test pile mix design is not acceptable to Bechtel due to presence of sulfates and chlorides in the soll. In order to use the test piles, Bechtel indicated an option to completely coat the piles. Bechtel sent a draft to MHI's use on July 7, 2005 with the final to be sent by the week of July 11, 2005. This is a follow up request for the complete specification.	Test piles are cast at the present time. The availability of the specification will enable MHI's subcontractor to prepare for the coating the test piles.	Bechtel issued specification 25027-001-3PS-NXS0-F0011 Rev 0 on July 13th to MHI.
37	7/13/2005	Approval of Test Pile Locations	MHI/Zachry issued the test pile location at SABINE Phase_2 Project	7/19/2005		The attached drawings indicate the coordinates for location of the test piles. The test piles were indicated in Bechtel document VPTL-00018. The drawings did not indicate the test pile coordinates.	Test piles are cast at the present time.	The test pile locations submitted with this RFI are NOT acceptable. The Scope of Work requires 21 indicator piles. The MHI plan is attempting to utilize 12 closely grouped reaction piles as indicator piles. This is not acceptable because the indicator piles must be distributed within the tank foot print. Bechtel will accept a minimum of 13 indicator piles distributed as marked on the attached sketch. The requirements for PDA testing and static testing are not changed by any reduction in the number of indicator piles. MHI must revise the Pile Test Plan Drawings to correct the pile locations. Please include the plant coordinates for the tank centerline on the drawings.
38	7/13/2005	Approval of Test Pile Mix Designs		7/18/2005	Approval of Test Pile Mix Design (Attachment indicates the ultimate test pile mix design discussed with Bechtel on Friday, July 8, 2005).	MHI would like to use test piles for production piles also. Test pile mix design is not acceptable to Bechtel due to presence of sulfates and chlorides in the soll. In order to use the test piles, Bechtel indicated an option to completely coat the piles. This is a follow up request for approval of the mix with the understanding that if the test piles are to be used for production piles, they will have to be completely coated.	Test piles are cast at the present time.	The mix design is NOT approved because of the use of Type III cement as discussed previously with Rama Challa. Any piles utilizing this mix design will have to be coated in accordance with the Bechtel specification to be utilized as production piles. Piles cast with this mix design and not coated may be utilized as test piles, however, they must be cut off and not utilized as production piles. Note: Not final, we confirm Phase 1.

RFI No.	DATE	DESCRIPTION	REVISION	currently	REPLY DATE	REQUEST FOR INFORMATION (RFI)			INFORMATION TO SUBCONTRACTOR
						INFORMATION REQUESTED	REASON REQUESTED	IMPACT	
39	7/13/2005	Approval of Test Piles		MHI/Zachry issued the test pile location at SABINE Phase_2 Project	7/19/2005	Formal Approval of the testing for the test piles.	We have discussed the usage of the test piles as production piles as indicated in SPLNG-RFI-0036 thru 0038. However, we need formal approval from Bechtel.	Test piles are cast at the present time.	Any piles utilizing the deficient mix design will have to be coated in accordance with the Bechtel specification to be utilized as production piles. Piles cast with this mix design and not coated may be utilized as test piles, however, they must be cut off and not utilized as production piles. Note: Not final, we confirm Phase 1.
40	7/13/2005	Piping Stainless Steel Material Grade	Reply R1:A304 or 304 w/0.03% max C.		2005/7/19 Rev.1	Class No Piping material has been specified as dual grade A304/A304L in Bechtel Project Specification for piping materials 3PS-PB00-F0001. Bechtel specification 25027-001-3PS-MTD0-F---1 in Section 5.4.1 indicated A304L material for all piping near product or product material. We would like clarification on usage of A304.		Will affect the piping design and purchase specification.	Piping material must be A304L or 304 with 0.03% max C.
41	7/13/2005	Document Review Period			7/18/2005	Exhibit B Section 7.4.1 (b) defines that review of critical items will be performed by CONTRACTOR and returned to the subcontractor in 14 days for critical items and 30 days for non-critical items. For subsequent submittals, Exhibit B Section 7.4.1 (d) defines that review of critical items will be performed by CONTRACTOR and returned to the subcontractor in 14 days for critical items and 30 days for non-critical items. We would like to request if subsequent submittals review period could be expedited to 7 days for critical items and 15 days for non-critical items.	This will help in accelerating the schedule.		The Contract review periods will not be changed. MHI should request expedited review for critical items. Note that Bechtel Code 2 review allows "work to proceed" subject to incorporation and resubmitted. MHI should proceed without waiting for subsequent submittal and review.
42	7/13/2005	Loading combinations			7/20/2005	Bechtel Spec. 25027-001-3DR-S04F-0001 Rev.000 on page 4 of 8 requires other load combinations per ASCE 7-02. Bechtel Spec. 25027-001-3DR-S04F-0002 Rev.000 on page 14 of 32 requires the load combinations and allowable stresses per AISC manual of steel construction. We understand that AISC is to be used in load combinations for the structural element design and that ASCE 7 to be used for cases other than those specified in AISC manual. Please clarify.	Using AISC load combinations and stresses with allowable increase of 1/3 is most appropriate for the design of structural elements used in this project.	Will affect the design of the structural elements.	Specification 25027-001-3DR-S04-0001, Sect.3.3 specifying ASCE 7 governs for load combinations and allowable stresses. ASCE 7 is the standard called out in 49CFR. Specification 25027-001-3DR-S04-0002, Sect.3.16 will be revised to be consistent with Specification 25027-001-3DR-S04F-0001 for load combinations and allowable stresses while allowing the use of Allowable Stress method as an alternative to LRFD. Advance copy of change in the specification attached.
43	7/13/2005	Tank Internal Ladders		MHI/Zachry design a internal ladder for inner tank.	7/18/2005	Bechtel MTD-24-0S01-0 on page 3 of 3 requires two sets of stainless steel internal ladders from outer roof to suspended deck. Since inner tank has one stairway, we suggest providing one set of internal ladder.	Ease of construction. Cist saving to Client.		Rev 1 of the tank data sheet calls for (1) galvanized carbon steel ladder from the roof to the suspended deck and (1) stainless steel ladder from the suspended deck to the inner tank bottom. Please use the current data sheet.
44	7/13/2005	Conditions 28			7/18/2005	Bechtel's review of MHI document DA-G 1006, preliminary support loading data indicated that the tower to be braced to the compression ring of the outer tank per FERC Conditions 28. Please provide FERC Condition 28.	To enable tower design.		See attached FERC Condition 28.
45	7/13/2005	Piping Material Color Code			7/18/2005	Please provide Bechtel Specification 3PS-PB-F0003, piping material color code.	To enable tower design.		The specification was placed into the eRoom on July 18th.

46	7/27/2005	VRV Piping Specification			7/27/2005	MHI would like to confirm if ASTM A216 WCB is acceptable for the Vacuum Breaker line material. Please refer to "25037-0D1-V11-MTD0-00037".	Piping material spec "3PS-PB-F0001" indicates that VB line to be N0, But the previous B&V Spec indicated carbon line.	Cost	Bechtel agrees that the line can be carbon steel. The vacuum relief inlets attach directly to the CS tank roof and do not extend into the inner tank space and therefore will not be exposed to the low temperatures below the insulation deck. Bechtel will change the pipe spec for these lines/valves to carbon steel (A1). Also, based on the same reasoning the tank top vent (GPL-24285), and the pilot inlets on the PSV's (GPL-24264, 24266, 24268, 24270) will be changed to carbon steel (A1) as well.
47	8/2/2005	Remote Tank Indicators at Tank Jetty	The scope is deleted (Nev, 2005)		8/2/2005	MHI would like to clarify the number of remote indicators on tank level at Jetty. Per the attachment, Bechtel requires 6 remote indicators. Per Exhibit "D" sec 2.7, MHI planned 3 remote indicators, e.g. 1 remoter indicator for each tank. Enclosure: Attachment 1 indicating 25027-001-V11-MTD0-00047 and Exhibit D, Section 2.7.	Clarification between contract and the subsequent correction.	Cost	We have east and west jetties. Both jetties are to be provided with a remote indicator of each tank level. That's why we need to have a total of 6 tank level indicators as marked on the review print.
48	8/2/2005	Cryogenic Butterfly Valves		MHI/Zachry design the piping design based on proposal P&ID.	8/5/2005	MHI would like to clarify the number of Cryogenic butterfly valves per P&ID Revision 00D. A separate and complete valve list based in the P&ID Revision 00D will follow in the middle of August for formal approval.	Due to the long lead time for cryogenic butterfly valves, we appreciate a review of the number of butterfly valves required.	Cost	Item #18" valves for vacuum relief isolation. These valves are not cryogenic valves. The remaining valves are listed correctly.
49	8/2/2005	P&ID Rev 00D Changes		Bechtel provided the P&ID (Rev000) for issued construction.	8/16/2005	MHI has reviewed the Revision 00D of the P&ID. The following indicates the difference between P&ID. Revisions C and D. Please review the items indicated in the notes. See attachment.	To finalize P&ID.	Cost	See attached. Bechtel responses has been added in the right hand column.
50	8/15/2005	Cryogenic Valve Extensions			8/16/2005	MHI was informed as follows regarding butterfly valve's additional requirements. On cryogenic valves, Bechtel standard practice is to use manufacturer's standard stem extensions that meet or exceed BS6364, ie, 10 in minimum. However, on this project the Owner has specified minimum length of 18" from top of flange. MHI would like to confirm the followings, 1. The above increased stem length should be additional requirement. 1. Could you please provide revised Bechtel's specifications or issue Sub Contractor Change Notice ? Is the additional requirement of stem length applied for limited to butterfly valves, and is it nor for all cryogenic valves ?	MHI would like to finalize the butterfly valve purchase specification and then to place P/O in a week in order to keep the delivery schedule of cryogenic valves. In these days delivery time of large cryogenic valves is very tight.	MHI have been expecting Cost and Schedule Impact.	The specification requires the stem extension. MHI must comply with the specification.
51	8/15/2005	Spill Pan Down comer	Down-comer pipes for spill protection is required. Bechtel will provide "Change notice" (Nov 2005)		8/16/2005	Area down-comer pipes for spill protection required in lieu of chute from spill pan ? In a cryogenic meeting on 10th August with regard to a different project, FERC requested Cheniere to conduct a split LNG safely to sump or trench in any conditions and if there are any possibilities for split LNG to touch the outer tank side wall or pipe support tower, down-comer pipe is required instead of chute from roof platform. Also FERC said, "In Sabine project, the final drawings of spill control shall be submitted to FERC incorporating FERC comments and that FERC does not accept the chute of spill pan." MHI submitted chute type of spill pan after the initial Sabine Pass FERC cryogenic though Bechtel, getting preliminary acceptance from Cheniere and Bechtel.	We would like to start down-comer pipe design after Bechtel's disposition about the issue and the associated cost impact.	Cost Impact	The Cryogenic Review conducted last week does not apply to SPLNG. No changes for SPLNG are anticipated at this time.

52	8/18/2005	Cable Tray Routing	Bechtel approved cable try routing based on PDS 90% Model at Mar 28, 2006	8/24/2005	MHI would like to know routing of power and signal cables from outside of tank battery limit, for example cable tray on the pipe rack or cable pit. Cable tray is preferable for MHI.	MHI need the information in order to determine equipment arrangement and cable routing. For each tank MHI would like to install junction boxes and wire up cables on the right side of support tower (Attachement-1).	Schedule	The routing of Power and signal cable from outside of the tank battery limit will be thru cable tray running on the pipe rack at elevation 151'6". As discussed in the meeting with Y. Umehara, the power and instrument junction will be located in a common shelter on the East side of the support tower. The instrument and power cable trays provided by the subcontractor to the JB shelter, shall have space for routing electrical and instrument home run cables.
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53	8/22/2005	Support Tower Loading Combinations			8/24/2005	RFI042 addressed the loading combinations. For the design of the support tower structural members, we intend to use LRFD3 rd Edition in accordance with ASCE 7-02 Section 2.3. ASCE 7-02, seismic condition refers to a maximum considered earthquake (MCE) representing a ground motion with 1 2 percent probability of exceedance in 50 years (ASCE 7 seismic maps are based on NEHRP 1997), SSE is a more severe earthquake representing a ground motion with 1 percent probability of exceedance in 50 years. SSE or OBE are not specifically in the design of the support tower for the seismic cases: 1. OBE condition with LRFD load combination : 1.2D + 1.0E (OBE) + L 2. SSE condition with LRFD load combination : 1.0D + 1.0E (SSE)  The above specification refers to the following documents: 1. 3PS-E00Z-F0001 Electrical Equipment Testing and Commissioning 2. 3PS-JQ00-F0001 Wiring for Instruments and Computers We currently have the following similar documents: 1. 3PS-E00X-F0001 Electrical Equipment Testing and Commissioning 2. 3PS-JQ00-F0003 Wiring for Instruments and Computers Please confirm which document to use.	MHI would like to finalize the support tower design.		For design of the support tower structure, the seismic force per ASCE 7-02 should be used, in lieu of OBE & SSE. From the Project Seismic Hazard Report by ABS Consulting, the IBC seismic design separate are shown in Fig 18. Specifically the Sds & Sd1 are defined as follows.; Sds = 0.18g (@0.2sec) & Sd1 = 0.12g (@1sec)
54	8/25/2005	Design Criteria for Electrical Systems			8/30/2005		1. 3PS-E00X-F0001 is the correct number. 2. 3PS-JQ00-F0003 is the correct number.		
55	8/24/2005	Cost & Schedule Impact of Water Quality			8/29/2005	MHI in Form Q of the proposal dated on November 24, 2004 have indicated deficiencies in the available water from the water quality report. These deficiencies have to be remediated prior to the water being used hydrostatic testing.	We would like to confirm test water quality. Presence of contaminants will affect the material used in construction. After confirmation of the water quality, MHI will issue hydrostatic test procedure.	Cost and Schedule impact if something does not meet the water quality requirements.	Paragraph 3.4. Of the Subcontract Exhibit D states that water complying with Appendix Q of API 620 will be provided. A copy of API 620 paragraph Q.8.3 is attached. Method of remediation is unknown at this time. MHI is responsible for filtering and pumping the water. Pumping rates are determined by MHI/Matrix.
56	8/25/2005	Temperature Sensors / Monitoring System			8/30/2005	Please provide us with Bechtel's requirements for sensor numbers of bottom insulation temperature monitoring system.	1) NFPA 59A paragraph 4.1.7.5 provides the requirement for the bottom insulation temperature monitoring system. This does not specify the number of sensors required but leaves it to the designer . 2)DLLC proposed to one temperature sensor at the center of slab foundation with explanation sheet on July based on our experience. Bechtel approved verbally on July. 3)We reviewed other European code about this matter, but we could not find about the numbers as the client request through Bechtel. Moreover European codes need not to be applied for this project.	Cost and Schedule	NFPA 59A paragraph 4.1.7.5 states; "A tank bottom temperature monitoring system capable pf measuring the temperature on a predetermined pattern over the entire surface are in order to monitor the performance of the bottom insulation and the tank foundation heating system (if provided) shall be installed. This system shall be used to conduct a tank bottom temperature survey 6 months after the tank has been placed in service and annually thereafter,..." MHI's attempt to install one (1) temperature element clearly does not meet the intent of this paragraph. Bechtel believes that the temperature monitoring system should have the same number of temperature sensors as the tank bottom cool down system.

56R1[	9/2/2005	Temperature Sensors / Monitoring System	R1	Bechtel will approve the five bottom sencer.	9/9/2005	<p>Please provide us with Bechtel's requirements for sensor numbers of bottom insulation temperature monitoring system.</p> <p>To respond Bechtel's comments on 29th Aug, we propose 5 temperature elements to monitor the performance of the bottom insulation as specified by NFPA 59 A 4.1.7.5 as Attachment 1, 2. Please provide your approval to it.</p>	<p>1) NFPA 59A paragraph 4.1.7.5 provides the requirement for the bottom insulation temperature monitoring system. This does not specify the number of sensors required but leaves it to the designer .</p> <p>2)DLLC proposed to one temperature sensor at the center of slab foundation with explanation sheet on July based on our experience. Bechtel approved verbally on July.</p> <p>3)We reviewed other European code about this matter, but we could not find about the numbers as the client request through Bechtel. Moreover European codes need not to be applied for this project.</p>		
57	8/26/2005	Design Schedule and Cost		Bechtel approved PDS 90% Model at Mar 28, 2006	9/5/2005	<p>1) Please provide the meaning of symbol at flange on tank. We do not find it Bechtel specification.</p> <p>2) Please provide reason for the expended length of BL line until bottom. The length is changed from P&amp; ID 00C. The BL line is a servo type level instrument stilling well, but the sensor is LSHH. Please reconfirm the length of BL Line.</p>	<p>1) Design Schedule</p> <p>2) Cost</p>	Cost and Schedule	<p>1. The symbol shown at the valve indicate the preferred pressure end of the valve (the high pressure side).</p> <p>2. A stilling well is required only a fer feet below the high level set point. MHI should provide a design that provides for adequate functionality of the instrument. MHI should submit installation details showing how the instrument and stilling well are to be installed.</p>
58	8/26/2005	Potential Impact on the Design			10/4/2005				
59	9/6/2005	Potential for Accelerated Corrosion			10/4/2005	<p>MHI in their proposal RFP No. 9544-811-HC1-MTD0-00001 Dated November 24, 2004 have clarified that the MHI proposed coating shall leave an unpainted 4" margin along all plate edges that will be welded in the field (See Note 6 in the attached Bechtel Specification).</p> <p>We would like a review of the bottom coating requirements on the bottom side of the outer tank bottom plate by Bechtel coating and corrosion specialists to see if the bottom coating of the outer tank bottom plate be completely eliminated. Typical LNG practice in the United States is not to provide any coating on the bottom side of the outer tank bottom plate.</p>	<p>1) Potential for accelerated corrosion in the unpainted areas.</p>	Cost and Schedule	<p>The bottom coating may not be deleted. The tank bottom must be coated as specified.</p>
60	9/7/2005	Specification to Quote Cost & Apply Drawings		The scope was eliminated	9/13/2005	<p>MHI request the specification of cable for infrared camera on the tank (Between camera and Junction Box).</p>	<p>MHI need that specification to quote cost and to apply tank E&amp;I drawings.</p>	Cost and Schedule	<p>The camera system has not yet been designed and therefore, the camera and cable specifications are not yet available. Bechtel will provide the specifications by the end of October.</p>

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66	12/12/2005	LNG TANK	Rev.2			Engineering Specification LNG Storage Tanks, section 7.1.5 requires 100% radiography of outer tank compression ring splices. This is not API 620 requirement. Can 100% UT be substituted for 100% RT? The UT procedure both technique and acceptance criteria will be developed by MHI and submitted for review.	MHI need the Bechtel's approval in order to proceed with the design. Ultrasonic inspection may be performed from the top side of the compression ring. Whereas, RT requires access from both sides. If UT is acceptable, this will offer the opportunity to shop assemble the compression ring to the thickened top shell course providing the opportunity to deposit higher quality & higher productivity welding in a shop environment. This also eliminates the radiation hazard associated with RT.	Cost & Schedule	UT is acceptable. As stated above, the UT procedure-both technique and acceptance criteria must be developed MHI and submitted for review.
67	12/12/2005	LNG TANK	Rev.1		12/15/2005	Engineering Specification LNG Storage Tanks, section 5.6.6 requires Foam Glass for piping insulation. Can we use Glass wool in lieu of foam glass?	Ease of installation and long term durability.	Schedule	Foamglass insulation is required. Glass wool is not acceptable.
68	12/13/2005	LNG TANK	Rev.00D		12/27/2005	SPLNG Straine Details, We are working with vendors with regard to providing a strainer shown on the P&ID drawings for a NO 6" PL-LNG Liquid at 275 psig and at-265 deg.F. Our vendors have enquired about the percentage of solids present in the LNG liquid(ppm). This is probably dependent on the source from which LNG is coming from (Atlantic Basin, Trinidad etc.). What is the maximum expected amount of solids, the strainer is required to strain?  SPLNG: Suspended Deck Suspension Rods Bechtel specification 5.2(LNG TANK SPEC) requires the suspension deck suspension rods to be 304L. We plan to use turn buckles on some of the areas which have penetration sleeves. Request if the Turnbuckles can be in Type 316 material. See attached excepts. 1) 3PS-MTD0-F0001-LNG STORAGE TANKS Section 5.2 2) MHI drawing indicating the suspended deck suspension rods.	To define parameters to the Vendors.	Schedule	The amount of solids is unknown. The strainers should be fabricated in accordance with the following: 1) 6" Basket strainer to meet NO pipi spec 2) Basket -316 SS 1/8" dia, X 3/16" perforated plate with 100-mesh screen(0.045 wire size)
70	1/27/2006	LNG TANK			1/31/2006	SPLNG: Please review the attached information on the valves/ We are considering the valve to be welded based on the Bechtel PIDs M6-24-00210-P&ID Tank S-101-Feed Lines Rev00D & M6-24-00211-P&ID Tank S-101-P+Dis Lines Rev00D attached. However, the Bechtel piping standard assembly detail VD4, on 3PS-PB00-F0001 piping materials indicate that the two inch ball valves need to be flanged. Please clarify.	Turnbuckles are only available in Type 316 material.	Schedule for Completion of suspended deck drawings	316 SS is acceptable for the turnbuckles.
71	2/2/2006	LNG TANK	Rev.002		2/6/2006		Conflicting Information between the PID and the Piping Material Spec.	Schedule for completion of modeling	The valves must be welded. The Bechtel details for Assembly VD4 will be corrected upon the next revision.
72	2/6/2006	Outer Tank Bottom Plate Coating		MHI/Zachry does not perform a coal tar emulsion be used for the bottom coating.	2/9/2006	MHI in their proposal RFP No.95448-811-HC1-MTD0-00001 Dated November 24, 2004 have clarified that the MHI proposed coating shall leave an unpainted 4" margin along all plate edges that will be welded in the field(See Note 6 in the attached Bechtel Specification). Note 6 of Bechtel Specification recommends a coal tar emulsion be used for the bottom coating. MHI proposed using attached AMERCOAT 1972B coal tar epoxy coating in lieu of the coal tar emulsion.	1) Substitution of the coal tar emulsion with the coal tar epoxy coating.	Cost and Schedule	Coal Tar Epoxy is a acceptable substitute for coal tar emulsion on the under side of tank bottoms provided the surface is abrasive blast cleaned and the coal tar epoxy is applied in accordance with the manufacturer's instructions, and it is applied at a dry film thickness comparable to that specified for the coal tar enamel (Appendix B, Note 6, 20 to 30 mils). Note that Hempel has been selected to supply all coating materials for SPLNG at an established price available to all of our suppliers. Therefore, the request to use coal tar epoxy is acceptable but Matrix should use the specified Hempel products.
73	2/13/2006	Pump Stage	Rev.2		2/15/2006	Accuracy of 16"V-Cone Type Follow Elements, FE24004A/B/C, 24204A/B/C will be ±2% in accordance with the Manufacturer's (MacCrometer's) standards.	Since no specific requirements in described in Project Specification for General Design for Instrumentation(25027-001-3PS-JQ6-F0001 Rev.000) we intend to apply the manufacturer(McCrometer)standards.	Cost impact+2%accuracy is not accepted.	±2% accuracy in accordance with the Manufacturer's(McCrometer's)standards for FE24004A/B/C, 24104A/B/C, 24204A/B/C for B-cone flowmeters is acceptable. MHI to submit vendor sizing calculations to Bechtel for review.

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74	2/13/2006	Pipe Cap Concrete Rev.2			3/1/2006	Specification 3PS-DB01-F0001-Furnish Deliver Ready Mix Concrete Rev002 indicates in Specction 3.1.5 that use of Fly Ash is required for all mixtures. We request for clarification if Fly Ash requirement is required for the Pile Cap Concrete.				Our understanding is the fly ash requirement is required due to potential reactions in the concrete due to wet and dry environment created in the found. As the pile cap is constructed at a minimum 3 feet of air gap between the top of the ground and the bottom of hte pile cap, intrusion of moisture form the found into the pile cap is minimal.	-	In accordance with the specification, fly ash is required in all concrete mixes. Bechtel will consider elimination fo the fly ash in the pile cap concrete upon the submittal of a sound technical justification and an acceptable concrete mix design.																																																						
75	2/20/2006		Rev.00D		2/28/2006	MHI would like to move 1"TE24024" from 42 unloading line to 36 unloading line, and b) add another 1"TE" on 36' unloading line due to piping layout, I.e.2"TE24024" and "TE" are installed on 36' unloading line. Reason and background of our proposal are as follows; In case 2"TE24024" &"TE" are installed on each 36' unloading line, we can use the stage already planned for HV 24021/24022 and check 2 at the same time. If we keep proceeding iwht the current plan that "TE24024" are installed in 42'line, we need to arrange for the stage for "TE24024" installed on 42' unloading line in narrow space (We will design to use stage of 36' flow mater, But now the plan is suspended) and also it's inefficient and difficult for checking and maintenance of it.				Cost and Engineering schedule.	Design Schedule	The request to add a second temperature is not acceptable to Behctel. A platform is not required for access to temperature elements. However, the temperature elements should be located close to PIT-24023 which does require accessibility.																																																						
76	3/2/2006		Rev.002		3/3/2003	12" and 6" spacers (both Class 150) are not listed on blind/spacerset of Ppe Class A1 of Piping Materials. 12" spacer is required on line nos. 12"-PL-25179-NO-C8.0" (min flow recycle form send-out pumps) and a 6" spacer is required on 6"-GPL-24285-A1-N(tank roof center vent).				12" and 6" spacers have to be specified for purchase.	None	The Piping Specification is correct. Utilize the Spectacle Blind called out on the line above-see attached markup.																																																						
The process data for the following pipe lines are to be informed.																																																																		
77	3/2/2006		Rev.00D		3/3/2006	<table><thead><tr><th>No</th><th>Line Number (S-101)</th><th>Fluid</th><th>Flow rate</th><th>Temp.</th><th>Press (psig)</th><th>Density</th><th>Viscosity (cP)</th><th>Purpose</th></tr></thead><tbody><tr><td>1</td><td>42"-PL-24200-NO-C9.5" (Receiving Line)</td><td>LNG</td><td>(1200m3/h?)</td><td>-265° F</td><td></td><td>0.489</td><td>(0.1267)</td><td>Calculation of Thermo Well TE-24024</td></tr><tr><td>2</td><td>6"-PL-24202-NO-C7.0 (Spray Line)</td><td>LNG</td><td></td><td>-265° F</td><td></td><td>0.489</td><td>(0.1267)</td><td>Calculation of Orifice FE-24027</td></tr><tr><td>3</td><td>16"-PL-24210-NO-C8.5" 16"-PL-24220-NO-C8.5" 16"-PL-24230-NO-C8.5" (Pump Discharge Line)</td><td>LNG</td><td>(977.5m3/h?)</td><td>-265° F</td><td>(115)</td><td>0.489</td><td>(0.1267)</td><td>Calculation of Thermo Well TE-24005A/B/C TI-24008A/B/C Calculation of V-Cone FE-24004A/B/BC</td></tr><tr><td>4</td><td>16"-RA-24281/2/3/4-NO-N (PSV)</td><td>Methane</td><td></td><td></td><td></td><td></td><td></td><td>Calculation of Thermo Well TE-24061/2/3/4</td></tr><tr><td>5</td><td>16"-N124241-NO-N (N2)</td><td>Nitrogen</td><td></td><td></td><td></td><td></td><td></td><td>Calcuation of Thermo Well TI-24086</td></tr></tbody></table>				No	Line Number (S-101)	Fluid	Flow rate	Temp.	Press (psig)	Density	Viscosity (cP)	Purpose	1	42"-PL-24200-NO-C9.5" (Receiving Line)	LNG	(1200m3/h?)	-265° F		0.489	(0.1267)	Calculation of Thermo Well TE-24024	2	6"-PL-24202-NO-C7.0 (Spray Line)	LNG		-265° F		0.489	(0.1267)	Calculation of Orifice FE-24027	3	16"-PL-24210-NO-C8.5" 16"-PL-24220-NO-C8.5" 16"-PL-24230-NO-C8.5" (Pump Discharge Line)	LNG	(977.5m3/h?)	-265° F	(115)	0.489	(0.1267)	Calculation of Thermo Well TE-24005A/B/C TI-24008A/B/C Calculation of V-Cone FE-24004A/B/BC	4	16"-RA-24281/2/3/4-NO-N (PSV)	Methane						Calculation of Thermo Well TE-24061/2/3/4	5	16"-N124241-NO-N (N2)	Nitrogen						Calcuation of Thermo Well TI-24086	(Bracketed Figures) are of preliminary. Bechtel is kindly requested to review them.	Design Schedule	Utilize the attached Line Designation Tables(LDTs) for all process data. The LDTs will be formally issued via the eRoom.
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MHI would like to confirm that the combination of Nozzle and Thermo Sensors for Cool Down as follows:( See attached)																																																																		
78	3/2/2006		Rev.002		3/3/2006	<table><thead><tr><th>Nozzle No.</th><th>Nozzle Size</th><th>Tag. No. of Themossensors</th><th>Purpose</th><th>Number of Thermo Sensor</th><th>Remarks</th></tr></thead><tbody><tr><td>FT1</td><td>12"#150 RF</td><td>TE-24032 A to L TE-24033 A to E</td><td>Bottom Cool Down Suspended Deck Cool Down</td><td>11 (Double Elements) 5 (Double Elements)</td><td>In order to balance the Number of Thermo Sensors,5 sensors for Suspended Deck Cool Down are combined with those for Bottom Cool Down. Please refer to EA-11602(Rev.001), EA-11603(Rev.001)</td></tr><tr><td>FT2</td><td>12"#150 RF</td><td>TE-24031 A to N</td><td>Side Wall Cool Down</td><td>13 (Double Elements)</td><td>16 Elements in total at Nozzle FT1 13 Elements in total at Nozzle FT2</td></tr></tbody></table>				Nozzle No.	Nozzle Size	Tag. No. of Themossensors	Purpose	Number of Thermo Sensor	Remarks	FT1	12"#150 RF	TE-24032 A to L TE-24033 A to E	Bottom Cool Down Suspended Deck Cool Down	11 (Double Elements) 5 (Double Elements)	In order to balance the Number of Thermo Sensors,5 sensors for Suspended Deck Cool Down are combined with those for Bottom Cool Down. Please refer to EA-11602(Rev.001), EA-11603(Rev.001)	FT2	12"#150 RF	TE-24031 A to N	Side Wall Cool Down	13 (Double Elements)	16 Elements in total at Nozzle FT1 13 Elements in total at Nozzle FT2		Design Schedule	Note 5 on P&ID M6-24-00212 Rev 000 documents previous agreements for temperature element and nozzle arrangements. Please comply with this note or explain why it needs to change.																																				
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80 Rev.1	3/28/2006			MHI/Zachry will propose the coating under bottom PL later.	3/31/2006	1.MHI proposes on using Hempel's Coal Tar Epoxy 119 US for coating the underside of the outer tank bottom plate instead of Hempel's Coal Tar Expoxy LTC15130. Product data of proposed coat tar epoxy is attached for your review and approval. 2.The following are the surface preparation, base coat and the final coat on the bottom plate	MHI's painting subcontractor suggested using Coal Tar Expoxy 119US because it offers some application and performance advantages with the same surface preparation.	None	Two more things must be confirmed before this is acceptable: 1 Confirmation that the preconstruction primer will be cleaned prior to application of the coal tar epoxy per the 3/1/06 e-mail from Trevor Neale(this is not addressed in the RF) 2 Technical support from Hempel stating that the coal tar epoxy can be applied up to 30 mils in one coat and will cure properly. The attached product data sheet is somewhat vague on thickness but does not support a 30 mil application in one coat. 30 mils is almost twice the recommended thickness of 16 mils per coat. Alternatively it would be acceptable if the coal tar epoxy was applied in two or more uniform coats to a thickness of 20 to 30 mils.																																
						i	SURFACE PREPARATION	SP-10																																	
						ii.	BASE COAT	0.6 to 0.8 mils Hempel 15890 Shop Primer																																	
						iii	FINAL COAT	20 TO 30 mils Hempel Coal Tar Expoxy 119 US																																	
81	3/28/2006	Instrument Stage			3/31/2006	MHI is now evaluating the venders of pump lifting devise. The experienced vendors for LNG pump lifter cannot procure the ASTM material for main parts(drum, jib, hoist etc.) However they are providing material equivalent to ASTM A36, ie.JIS SS400 or BS EN10025-S355J2G3. MHI requests acceptance of the JIS SS400 and BS EN10025-S355J2G3 instead of ASTM A36. Please refer to the attache file and below table for chemical composition and mechanical strength.	None	Cost	The alternate materials are acceptable. (There appears to be a typo in the Phosphorus % for the BS spec)																																
<div>Material Data</div> <table><tr><td></td><td>ASTM A36</td><td>JISG3101(SS400)</td><td>BS EN10025(S 355J2G3)</td></tr><tr><td>Tensil strength [Mpa]</td><td>400-500</td><td>400-510</td><td>490-630</td></tr><tr><td>Yield strength [Mpa]</td><td>250</td><td>254</td><td>250-355</td></tr></table>											ASTM A36	JISG3101(SS400)	BS EN10025(S 355J2G3)	Tensil strength [Mpa]	400-500	400-510	490-630	Yield strength [Mpa]	250	254	250-355																				
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82	3/28/2006	Tank Field		The scope was eliminated	3/29/2006	Bechtel is requested to confirm the MHI proposal concerning the Fire&gas system as follows; 1) List of Drawings for Fire & Gas System 2) Scope of Works for Gas Detectors 3) Thermo Sensors for Fire and Gas System 4) Contents of the Wiring diagra, Arrangements, Installation D rawings of the Instrumentation for Process & Utility 5) Cable Tray for Fire & Gas System Please refer to the attached document in detail.	To progress detail design	None	See responses as marked on attached.																																

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83	3/30/2006	Tank Field			3/31/2006	<p>1. Concrete Placement Temperature per the 3PS-DB01-F0001-Furnish &amp; Deliver Ready Mix Concrete Rev002 is restricted to a maximum valve of 90 deg. F at the discharge point of the conveying vehicle. MHI is developing a contingency plan for provision of concrete it there a failure of the batching plant. The potential vendors involved in development of the contingency plans have indicated that the concrete temperature at the discharge might exceed 90 deg.F.</p> <p>2. Our review of the existing literature indicates that the placement temperature be between 75 deg. F and 100 deg.F (see for example the extract from ACL 207.2 R Attached)</p> <p>3. MHI would like to request increase in the limitation on the maximum temperature to enable development of the contingency plans.</p>	To develop contingency plans if the batch plant fails	None	Bechtel will not accept a temperature exceeding 90F. Contingency plans should include batch testing of mix designs that meet all specification requirements including delivery temperature.
84	4/3/2006	Tank Field(Conduits for Electric and Instrumentation cables)			4/3/2006	<p>1) The rigid type conduits will be used for the electrical equipments such as Lighting Fixtures, Junction Boxes, Distribution Boards as per Bechtel's requirements. These procedures will be indicated in the related drawings.</p> <p>2) The flexible conduits will be used for the inserting portion of In-line transmitters, Level Transmitters, Head of Thermal sensors in order to facilitate the maintenance work. These procedures will be indicated in the Hook Up Drawing.</p>	None	None	The Clarification described above is acceptable. Length of the flexible conduit (for maintenance purpose) at the portion of the in -line instruments shall not exceed the code (NEC) requirements.
85	4/19/2006	Instrument Stage	Rev.000		4/19/2006	<p>1) Servo Type Level Transmitters(LIT 24049/24149/24249) are provided with a local indicator on it as MFR's standard. (Refer to attached drawing) RADAR Type Level Transmitters (LIT24041/141/241)are NOT provided with a local indicator on it as MFR's standard. Thus, Bechtel to confirm if an additional local indicator is necessary or not since local level indicator will be located in the Instrument Stage.</p> <p>2) Bechtel to confirm if local level indicators are to be provided underneath of the Tank(near JB) since local indicators are not located there so far but located on the Instrument Stage as per Owner's requirements dated on 02-Dec-2005.</p>	None	None	1) A local level indicator for the radar level transmitter is required. 2) Local level indicators must be located on the tank top instrument platform.
87	4/19/2006	Pump Cable Seal Piping from Ebarra	Rev.002		4/19/2006	<p>A 1 inch diameter carbon steel header for nitrogen system is suggested to the P&amp;ID to facilitate distribution of nitrogen to be pump cable seals for ease of operation. (We need Behtel(s approval to compete the BQ)</p>	<p>1) There is only one main nitrogen pipe(6"-NI-39111-A1-N) to connect the 1/2" stainless steel tubing. Its distance from the pump cable seals, especially those on Pump Wells M1 and M2,would require long stainless steel tubing runs. Also, the 4 branch connections, including that for Spare Pump Well M4,plus the2 nitrogen hose station pipes(1"-NI-39185-A1-N and1"-NI39186-A1-N)would result in crowding of branch connections on the 6" nitrogen pipe.</p> <p>2) Nozzle N3c is located on top side of pipe. Simply providing a vent protector/vent screen will allow ingress of rainwater into the cable seal pipe. A goose neck tubing is recommended to which vent protector(plug vent) could be attache.</p>	None	1)MHI should route and install the nitrogen supply to the pump cable seals in the most practical and economic manner. Any combination of piping or tubing meeting this requirement is acceptable. The sketch attached to the RFI is acceptable. Note that there is a nitrogen line(2"-NI-24245) already routed to each pump discharge that ma be closer than the 6" header. 2) Utilize an angled vent or gooseneck as appropriate.

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88	4/25/2006	Pump Well Headplate by Ebarra	000 A-For Approval		5/1/2006	Nozzle N9A-C(2")for pressure indicators PI-24054A-C are missing from pump well head plate provided by Ebarra. We need Bechtel's confirmation to identify instrumentation.	P&ID M6-24-00212 shows Nozzle N9A-C for pump well s M1-M3 where PL-24054A-C are to be connected. Ebarra dwg. R7000905 doesn't show this nozzle. These items have not been modeled yet.	None	The nozzles N9A thru D are not on the headplates but on the pump columns. Please see tank data sheet MTD-24-OS101 and the original B&V P&IDs. MHI to locate the nozzles on the side of the pump columns.
89	5/9/2006	LNG Pump Vibromenter Cable			5/12/2006	We received instructions of Cable to use the BELDEN catalogue for "P/N 9366 #16 Shielded 2T" cable for LNG Pump Vibromenter at E&I meeting held on March 16'06. In the results of our investigation, the number of triads available for this part number is not available 2T but 1T. See attached file "Belden part number 9366" below. Please confirm part number for WAG # 16.2T cable at the earliest.	None	None	Bechtel confirms to use P/N 9366 only which is 1T. MHI should provide two(2) 1T cables for 2T requirements.
90	5/9/2006	Discretionary Vent			5/12/2006	Please confirm about meeting contents of March 16. We were directed that was attached to PV24056A/PV24156A/PV24256A.Discretionary Vent Control Valves" "Solenoid Valves(PY			The solenoids are provided by Bechtel on the control valves. See attached data sheet JVD-JV09-24056A. MHI scope is to provide and install wiring from the solenoids to the junction boxes.
91	5/9/2006		Rev.000		5/12/2006	1) Scope of Supply of the Temperature Sensors 2) Associated Transmitters for the Temperatures Sensors 3) Description of INSTRUMENT LIST	To clarify Bechtel requirements	None	See reply marked on attached.
92	5/9/2006		Dated 17- March-2006		5/15/2006	(MOM Item 1-20) Bechtel is requested to send MHI the Bechtel Standard of Hook Up Drawings.	Hook Up Drawing is necessary to progress the detail design for instrumentation.	None	Bechtel's instrument Installation Details that have been issued to - date are attached. These details are provided for your information only. MHI retain responsibility for the correct installation of tank instrumentation.
93	5/9/2006		Dated 17- March-2006		5/12/2006	1)(MOM Item 1-9) Bechtel is requested to inquire EBARA and to inform MHI to install vibration sensor on the pump barrel for reference. 2) (MOM Item 1-12) Bechtel is requited to confirm that IT/IE24012A are not installed in the tank field but installed in MCC.( To confirm that, no cables will be necessary in the tank field).	Necessary for progress in the detail design of instrumentation.	None	1) See attached Ebara documents. 2) Confirmed.



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94	5/9/2006		Rev.002		5/19/2006	<p>1) Bechtel is kindly requested to complete the attached LNG Manager Request For, which the manufacturer (Whessoe) needs to order the software license for Data Acquisition System (DAS).</p> <p>2) Please let us know to where and when the PC or PC simulator to be sent in order to test the signal interface during DCS Factory Acceptance test. In this connection, we are pleased to inform that the DAS is planned to complete by the end of 2006.</p>	MHI has no information concerning the manufacturer of the DCS.	None	<p>1) See attached LNG Manger Software Request Form-completed by Owner.</p> <p>2) The PC simulator with the database should be sent to Yokogawa at the following address. Attn: JimGalloway of Yokogawa Corporation of America at 12530 West Airport Blvd., Sugarland, TX77478.</p> <p>NOTE: Factory Acceptance TEst(FAT) is scheduled to begin to September 12,2006 and will be completed no later than November 30,2006.</p> <p>Note : Do not ship the entire Whessoe system to Yokogawa-only the PC simulator with the register and the database. The rest of the system should ship directly to the jobsite.</p>
95	5/9/2006	LNG TANK	Rev.2		5/10/2006	<p>Engineering Specification LNG Storage Tanks, section 7.1.5 requires 100% radiography of outer tank compression ring splices. This is not an API 620 requirement. Can this requirement be waived?</p>	MHI need the Bechtel's approval in order to proceed with eh design. If waiving of RT is acceptable, we will review and advise impact on the schedule.	SCHEDULE	The requirement for 100% radiography can not be waived. Bechtel may consider substituting UT in lieu of the RT.
96	5/15/2006	Instrument Stage			5/14/2006	<p>We would like to confirm the diameter of pipe header of N2 injection for water hammer mitigation Bechtel indicated that diameter may be reduced from 16 to 12, if 37 feet is provided for the header. DLLG is proceeding with design using 37 as shown in attachment-1. We would like to reduce the heaer to 12 in diameter. Please confirm and revise Bechtel's P&amp;ID M6-24-00211.</p>	The length is increased 37 to accommodate future line.	None	The P&ID has been changed-see DCN M6N DK 00125 issued May 2,2006.
97	5/15/2006	Instrument Stage	Rev.3		5/19/2006	<p>Bechtel requested in the Wiring Diagram that the Cool Down Thermo Sensors TY24031 TY24032 TY24033 are not connected to Servo type Level transmitter (LE24055) in order not to mix them into SIS system. Whessoe confirmed that the Bechtel's requirement could be realized provided that a transmittar is added on the loop1 and 2 in order to centralize cool down thermo sensor information. DLNG would like to propose TY24031 TY24032 TY24033 are connected to LE24055 for the following reason: The RS485 bus o LT/LE24049 and LE24055 is permitted to connect up to five(5) devices as Whessoe's standard. MHI Proposes to connect eight(8) local devices as follows; Item 1: Three(3) devices, such as TY24031 TY24032 TY224033 will be connected to LE24055. Item 2: Five(5) devices, such as TY24237/24238/T124237A/T1238A/L124249A will be connected to LE24049 as maximum. We need Bechtel's confirmation.</p>	To proceed with the Design	<p>No cost impact for item1, Additional cost impact for item2, in addition to the transmitter Cost, Instrument List, Schematic Diagram, Winning Diagram, Arrangement fo Instrumentation, Connection diagram will be modified in accordance with the Whessoes information.</p>	<p>TY -24031/TY240032/TY-24033 are originally connected to LE-24049 on MHI document EA-11501-2 Rev 2 and nothing connected to LE-24055. Bechtel only requested to change LE-24055 from Displacer type to Servo type level sensor. Separation of SIS signal in conduit, junction boxes, etc is necessary to avoid accidental shutdown during maintenance of Non-SIS loop. Refer to paragraph 12.4.3 of Specification 25027--001-3PS-JQ06-F0001 Specifications for General Design for Instrumentation".</p>
98	5/18/2006	Instrument Stage			5/18/2006	<p>We would like to confirm the missing data of Piping material Specification (attachment-2) DLNG assume the length 13" between thermo instrument and pipe in case of 8.5-9.5 of insulation.</p>	We design to need the length for construction.	None	<p>Bechtel has revised the piping specification including drawing P9-PB00-00004 to show 7"-9" insulation requires a 12" spool piece flange for N0 pipe class (see attachment). MHI/MHI should also use a 12" extension for the 9.5" insulation.</p> <p>MHI/Matrix must verify the Thermo well wake frequency calculation in accordance with ASME PTC 19.3. For Bechtel thermo wells with 12" extensions, the extensions failed the calculation. We therefore required the thermo well vendor to include a collar support design.</p>
104	5/30/2006	LNG Tank			5/31/2006	<p>Please review the attached outer tank top wind girders. The angle supports are utilized to provide for temporary supports to the wind girder as the top wind girder is utilized as a scaffold for the tank shell erection. We would like to use the angle supports as the permanent supports in lieu of the gussets.</p>	We would like to have Bechtel's disposition about the issue.	Schedule for preparing angle gussets.	Bechtel has no objection in using angle braces to support the tank wind girders provided they meet API 620 Requirements.

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105	5/30/2006	LNG Tank			5/31/2006	Please review the attached calculation regarding outer tank wind girders. The calculations meet the requirement of API-620. MHI has concurred that the wind girder vertical leg can be reduced. The design calculations will be formally modified after Bechtel's agreement to go ahead with the change.	We would like to have Bechtel's disposition about the issue.	Schedule for bending the plate	The dimensions of wind girders are the responsibility of MHI. Bechtel has no comment as long as their sizes meet the requirements of API 620. Calculations and drawings should reflect the actual as-built dimensions.

EXHIBIT 'H'

FOR

LNG TANKS

[Technical Clarification Sheet]

July19

003 19July06  
002 23 June. 06 Up dated  
001 20 Dec.05 Up dated  
000 ISSUED FOR PROPOSAL

NO.	DATE	REASON FOR REVISION	BY	CK'D	APPR	APPR REV.
		Technical Clarification Sheet				
SP LNG PHASE 2 EXPANSION TERMINAL PROJECT						003

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
1	<b>Seismic Condition for tank design</b>	"Seismic Hazard Assessment of the Planned LNG Terminal Sites in Corpus Christi and Sabine Pass, Texas" (Aug. 2003) is based on NFPA 59A (2001). Please note that Horizontal and Vertical OBE and SSE UHS at Sabine Pass LNG site (Response Spectrum) may have changed based on the newly issued NFPA 59A(2006).	We have assumed the original site seismic requirements also apply to Phase II. Please confirm.	<b>NFPA (2001) is applicable code. NFPA (2006) is not applicable.</b>	<b>None</b>
2	<b>Documents and Drawings for approval</b>	We would like to propose the following procedure for document submittal. We will submit same drawings & documents to Cheniere/EPC for Construction for the Phase II tanks once we received approval from Bechtel for Phase I tanks. If we make a change to the Phase I tank its details or its calculation, we intend to submit revised drawings and documents to Cheniere/EPC for approval.		<b>Agreed.</b>	<b>None</b>
3	<b>Exhibit D Attachment II 5.0 J Electronic copy in original format</b>	We will submit PDS modelling in native format however other drawings and documents will be in pdf. Format.	We cannot confirm the applicability of our work product to any other project. We refer Owner to your indemnification of us in GC 41.7.	<b>Drawings will be provided in native format; however, the agreement will be signed with respect to this matter.</b>	<b>None</b>
4	<b>Exhibit D – Section 1.0 – Description of Work – General</b>	The scope of work for this contract includes...three 160,000 m <sup>3</sup> net capacity, above ground, single containment, LNG Storage Tanks...	The scope is based on two 160,000 m <sup>3</sup> LNG Storage Tanks.	<b>Agreed.</b>	<b>None</b>
5	<b>Exhibit D – Section 2.4 – Utility Stations</b>	SUBCONTRACTOR shall design and supply...three (3) Utility stations consisting of Plant Air, Instrument Air, and Nitrogen	We design and supply for each tank Two (2) Utility Stations consisting of Plant Air and Nitrogen, not Three (3) Utility Stations, since instrument air is sent directly to instrument (not through utility station)..	<b>Agreed</b>	<b>None</b>

# Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
6	Exhibit D – Section 2.5	We would like to confirm that Cathodic protection don't need in the same way as the present phase 1 or need in accordance with the Geotechnical Report.. <b>If the Cathodic protection don't need, we would like to confirm that other measures is needed</b> <b>We assume that there is not Cathodic protection for Phase1, and we exclude the Cathodic protection from the estimate for Phase2.</b>		<b>Agreed the omission of Cathodic protection.</b>  <b>The Owner will provide the other measure if any for Phase1.</b>	<b>None</b>
7	Exhibit D – Section 2.5 – Concrete Supply	The supply of the concrete shall be by SUBCONTRACTOR.	The scope is based on using the existing Dunham-Price batch plant on site to provide ready-mix concrete of sufficient strength and quality for the tank foundations.  Also, the scope assumes that the batch plant is sized to support phase 1 and phase 2 concrete pours so as not to preclude progress on phase 2 tanks. We reserve the right for equitable schedule relief (day-for-day) should the phase 2 foundations delayed due to phase 1 interference.	<b>Agreed; however, it is expected that TANK CONTRACTOR will provide the appropriate schedule information such that Phase 2 concrete pours can be coordinated with Phase 1 concrete pours.</b>  <b>Furthermore, it is expected that the TANK CONTRACTOR will coordinate the supply of concrete for the pile cap, including the appropriate contingency plans should the batch plant be unavailable.</b>  <b>PURCHASER will not accept any schedule relief claims due to TANK CONTRACTOR's failure to make appropriate plans for concrete pours.</b>	<b>None</b>
8	Exhibit D – Section 2.7 – Instrument/Control Systems	SUBCONTRACTOR shall perform calibration tests for all instruments at site.	The scope includes calibration for instruments designated as supplied by Diamond LNG within the battery limits of the tank on the P&I Diagrams.	<b>Agreed.</b>	<b>None</b>

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Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
9	<b>Exhibit D – Section 2.8.8 – Lightning System</b>	SUBCONTRACTOR shall develop a lightning protection diagram	The scope does not include lightning protection.	<b>Agreed.</b>	<b>None</b>
10	<b>Exhibit D – Section 3.1 – General</b>	SUBCONTRACTOR shall supply all necessary supervision, labor, camp, construction, ...	The scope does not include provisions for a labor camp.	<b>Agreed.</b>	<b>None</b>
11	<b>Exhibit D – Section 3.1 – General</b>	Multiple references to CONTRACTOR/SUBCONTRACTOR	The scope assumes that DLNG & ZCC will contract directly with Cheniere. The references to CONTRACTOR/SUBCONTRACTOR should be modified to reflect the contracting strategy.	<b>Exhibit D documents to be revised to reflect phase 2 contract.</b>	<b>None</b>
12	<b>Exhibit D – Section 3.1 – General</b>	SUBCONTRACTOR is to be aware that during tank erection, other subcontractors, who will be installing piperack foundations, piperack steelwork, pipe work, and the central sump, will require access.	The proposal assumes that we will have unobstructed access to the tank area, the laydown facilities, and our site offices at all times. This includes the installation of the berms that surround the tank areas. We assume that the construction of the berms will not interfere or block construction traffic to/from the work areas, the laydown areas, and movement between Tanks #4 & #5.	<b>Whereas unobstructed access cannot be guaranteed, Diamond LNG/ZCC can expect reasonable access to the laydown facility, site offices, parking area, and work areas. We will coordinate tie-in with Bechtel.</b>	<b>None</b>

## Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
13	<b>Exhibit D – Section 3.1 – General</b>	Special reference is made to CONTRACTOR's Safety and Health Plan, as detailed in "Exhibit B, Appendix B-2". All work requirements shall be performed in accordance with this Plan.	<p>The scope assumes that all work will be in accordance with Zachry's SHE&amp;S plan. Furthermore, we assume that the ZCC SHE&amp;S plan is of similar nature to the plan referenced in "Exhibit B, Appendix B-2."</p> <p>Please note, the scopel assumes that the phase 2 tank construction will not require personnel to be in fire retardant clothing, special respiratory equipment, or that a daily work permitting system will be in place for phase 2 tanks while phase 1 tanks are operational.</p>	<b>Agreed, for TANK CONTRACTOR construction work areas. However, for all other common areas TANK CONTRACTOR will be required to follow overall project HS&amp;E Plan.</b>	<b>None</b>
14	<b>Exhibit D – Section 3.3 – Site Preparation</b>	<p>After early clearing and rough grading by CONTRACTOR, SUBCONTRACTOR shall perform any other site grade activities to suit its own requirements for construction.</p> <p>CONTRACTOR will perform rough grading as required...to provide SUBCONTRACTOR a suitable initial surface for construction.</p> <p>SUBCONTRACTOR is responsible for the maintenance of the parking and laydown areas.</p>	<p>The scope does not include site preparation, site grading, or site improvement activities.</p> <p>The scope assumes that the CONTRACTOR will provide a tank area that is graded for drainage and stabilized to support construction traffic, including improvements such as a base course surface, access roads, and heavy haul roads.</p> <p>The scope does not include the installation or maintenance of the parking and laydown areas.</p> <p>Please refer to attached sketch detailing the necessary requirements for construction access, laydown areas, and haul roads.</p>	<p><b>Agreed. All final grading and surface improvements will be provided.</b></p> <p><b>The planned parking, laydown, and work areas have been noted and described within Exhibit B, SC-4.</b></p> <p><b>Diamond LNG/ZCC will maintain area specifically used by us. Bechtel will maintain roads and common access to work area laydown and parking.</b></p>	<b>None</b>

## Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
15	<b>Exhibit D – Section 3.3 – Site Preparation</b>	The soil in tank construction area would be stabilized to a depth of 14ft (4.5m) below the existing surface by the Client. The stabilized soil are to have a minimum unconfined compressive strength of 25psi(172kN/m2) by the Client.		<b>Stabilization of work area, laydown &amp; parking and access road by Cheniere/Bechtel</b>	<b>None</b>
16	<b>Exhibit D – Section 3.3 – Site Preparation</b>	SUBCONTRACTOR shall incorporate into its design the elevations shown on the Civil Site Development Drawings, provided by CONTRACTOR.	The scope does not include site preparation, site grading, or site improvement activities.  The scope assumes that the CONTRACTOR will be responsible for final grading and final surface improvements.	<b>The tank contractor will be responsible for the final grading underneath the tank.</b>	<b>None</b>
17	<b>Exhibit D – Section 3.3 – Site Preparation</b>	SUBCONTRACTOR shall provide a procedure to handle Hazardous Substances.	The scope does not include mitigation of any underground obstructions or contaminated soil that may be encountered during foundation installation.	<b>Agreed.</b>	<b>None</b>
18	<b>Exhibit D – Section 3.3 – Site Preparation</b>	CONTRACTOR/OWNER will work to mitigate permit restriction for noise impacts caused by extended pile driving.	The scope does not include any special noise abatement for pile driving operations or other general construction noise.	<b>Agreed.</b>	<b>None</b>



## Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
19	<b>Exhibit D - Section 3.4 - Tank</b>	Finished grade Level of concrete after foundation is expected to be at the same level as the present phase I tanks. ie at elevation +118'-6". And Geotechnical investigation report shows the present ground surface level with about +16 ft. We would like to confirm that relation of the plant standard point level and the level of the Geotechnical investigation report. We suppose the relation to be +112'-6" = +16ft. If the relation is not right, we must change the length of pile and ground surface level.		<b>The existing ground elevation in the tank area is at approximately +16ft. After stabilizing the soil Bechtel remove the top 3.5ft and use it to construct the tank containment dikes. Thus the final design grade becomes +12.5ft. We add 100ft to this final grade so that we are always working with a positive number - thus the design grade shown on the drawings is +112.5ft.</b>  <b>The elevation of the inner tank bottom shall be the same in Phase 1.</b>	<b>None</b>
20	<b>Exhibit D – Section 3.4 – Tank</b>	Tank foundation including...finishing of concrete.	The scope does not include rubbing or any other special aesthetic finishes for the tank foundation.  The scope does include pointing and patching the concrete foundation to remove tie-holes and other surface abnormalities.	<b>Agreed provided that TANK CONTRACTOR will repair any surface damage to piling and pile cap. Aesthetic finished are not required.</b>	<b>None</b>
21	<b>Exhibit D – Section 3.4 – Tank</b>	All welders must pass a welder's qualification test procedure...	The scope assumes that welders will be tested and qualified in accordance with ASME section IX.	<b>Agreed.</b>  <b>All welders will be qualified in accordance with ASME section IX. Past certifications will not apply.</b>	<b>None</b>

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
22	Exhibit D – Section 3.4 – Tank	All radiographs shall be made available to CONTRACTOR for review upon request.	The scope assumes that digital radiography will be an acceptable form of NDE. Should digital radiography not be acceptable, we reserve the right to adjust our proposal price and schedule.	<b>Digital radiography is acceptable provided that it is of acceptable quality for an LNG facility.</b>	<b>None</b>
23	Exhibit D – Section 3.4 – Tank	SUBCONTRACTOR is responsible for hydrotesting of inner tank and monitoring of foundation/tank settlements during hydrotesting. Hydrotest water will be available in a holding pond 4000 feet from the tanks. Water will comply with API 620 Appendix Q. SUBCONTRACTOR shall filter and pump the water...and return the water upon completion.	The scope includes the costs for pumping the water to/from the tanks; however, due to the lack of information on the water chemistry and composition we are unable to define the extent of filtering and/or additional treatment. Therefore, the proposal does not include filtering or water treatment of the hydrotest water. The proposal shall be adjusted upon definition of the filtration and/or treatment requirements.  Furthermore, the scope assumes that water will be available at a rate of 10,000 m3 per day.	<b><i>The estimation includes general filtration, but not special filtration.</i></b>  <b>Cost of special filtration, if required, will be added later.</b>  <b>Research is being conducted to define the level of filtration that should be expected based on Phase 1 operations.</b>  <b>The hydrotest water will be available at a minimum flow rate of 6,500 m3 per day to support the Phase 2 hydrotest schedule.</b>	<b>None</b>
24	Exhibit D – Section 3.9 – Painting	Ladders, cages, and grating shall be galvanized...all other structural steel parts shall be painted in accordance with the specification.	The scope assumes that all structural steel members will be conventional hot dipped galvanized.	<b>Agreed.</b>	<b>None</b>
25	Exhibit D – Section 3.9 – Painting	Concrete shall be coated for protection in accordance with the Specification....	The scope does not include any concrete coatings.	<b>Agreed.</b>	<b>None</b>
26	Exhibit D – Section 3.11 – Electrical	Install lightning protection system for tanks.	The scope does not include a lightning protection system.	<b>Agreed.</b>	<b>None</b>
27	Not applicable				<b>None</b>

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
28	<b>Exhibit D – Section 7.5 – SUBCONTRACTOR's Jobsite Office</b>	One office for CONTRACTOR's personnel, fully equipped.	The scope assumes that Bechtel will be on site for phase 1 and phase 2 and will be providing their own offices. The proposal does not include office provisions for Bechtel.	<b>Agreed.</b>	<b>None</b>
29	<b>Exhibit D – Section 7.7 – Other Temporary Facilities/Services</b>	Temporary access to and around SUBCONTRACTOR's Tank construction site, including temporary storm and construction water drainage....	The scope does not include any provisions for storm water drainage.	<b>Agreed. Permanent storm water drainage is not required. The Tank Area will be graded to drain by others; however, it is expected that the TANK CONTRACTOR will provide pumping of casual rainwater within the tank area into ditches provided by others.</b>	<b>None</b>
30	<b>Exhibit D – Section 7.7 – Other Temporary Facilities/Services</b>	Daily Transportation to/from Jobsite	The scope assumes that the Cheniere will provide an adequately sized employee parking facility located within walking distance to the phase 2 work area. The scope does not include bussing or offsite parking accommodations.	<b>Agreed . The scope has been revised to include daily transportation of craft to the worksite in accordance with Exhibit B, SC-4.</b>	<b>None</b>
31	<b>Exhibit D – Section 7.7 – Other Temporary Facilities/Services</b>	Guard/Security	The scope assumes that the jobsite will be controlled by the Cheniere's security service and security fencing.	<b>The site will be controlled by a perimeter fence and a guard service, but the phase 2 contractor is responsible for the security of his work area and laydown area.</b>	<b>None</b>
32	<b>Not applicable</b>				<b>None</b>
33	<b>SPLNG LNG TANK SUBCONTRACT NOTES FOR NEGOTIATIONS FOR 4<sup>th</sup> TANK .</b>	We confirmed Exhibit D and E (Rev002).		<b>Agreed.</b>	<b>None</b>


Article 1: Current revision (  ) of Exhibits D & E dated October 20, 2005 are attached.

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
34	Not applicable			Same as Item_1	None
35	Ditto Article 3: The reference to the Geotechnical Report should be changed to the new report completed this summer.	We confirmed.		Agreed.	None
36	Ditto Article 4: The CTLNG FERC Cryogenic Review comments are not yet included in the scope of work for the first three tanks.	<i>We need exact requirement from Cheniere for FERC CTLNG review in order for us to estimate the change if any.</i>	<i>The following changes are included in our proposals request from FERC for CTLNG comments. - 36" flange located at the top of inlet line. - Down comer pipe.</i>	<i>Agreed; however, additional FERC Comments may be received and incorporated after contract award.</i>	<i>To be confirmed</i>
37	Ditto Article 5: The Discretionary Vent is shown on the P&IDs as "HOLD" and is not yet in the scope of work for the first three tanks.	<i>Discretionary vent finalized by Bechtel with their P&amp;ID rev.000 dated February 17, 2006.</i>	<i>Please refer to Item62 of this sheet.</i>	<i>Follow phase 1.</i>	<i>See item 62</i>
38	Ditto Article 6: Add a Dry Chemical System to the tank PRV tailpipes. Bechtel will issue specification 3PS-MTDO-F00002.	<i>Dry chemical system is not included in our proposal at this stage.</i>	<i>Dry chemical is not finalized in SPLNG_1 yet. This will be future change.</i>	<i>Fire gas system (Dry chemical) will be added later.</i>	<i>To be confirmed later</i>
39	Ditto Article 7: Add specification 3PS-PV00-F00001 "Testing Valves for Cryogenic Service". (Current scope of work requires the Subcontractor to develop his own spec.)	We confirmed.		Agreed.	None
40	Ditto Article 8: Add specification 3PS-CP00-F00001 "Prestressed Concrete Piles".	We confirmed.		Agreed.	None
41	Ditto Article 9: Add the Painters Trolley? – Owner Option.	Painters Trolley is not included.		Agreed.	None
42	Ditto Article 10: Clarify that all temperature elements must be Duplex Type.	Duplex temperature elements are included.		Agreed.	None

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
43-1	<b>Ditto</b> <b>Article 11: Clarify that the tank bottom insulation monitoring system must have at least 5 temperature elements.</b>	5 elements bottom monitoring are included.		<b>Agreed.</b>	<b>None</b>
43-2	<b>Ditto</b> <b>Article 12: Clarify that all stairs must be at least 36" width. (Bechtel drawing 25027-001-SS-000-00012 specifies 30".)</b>	Stairs have 36" clearance, but tread is 32" width.		<b>Agreed.</b>	<b>None</b>
44	<b>Ditto</b> <b>Article 13: Clarify that all tank nozzles must be flanged.</b>	<i>Tank can be isolated with flanges and open spacer on sub rack in Bechtel scope area.</i>	<i>Need confirmation with Cheniere.</i>	<i>Follow phase 1.( Phase2 P&amp;ID for both tank and terminal is the same as Phase 1 )</i>	<b>None</b>
45	<b>Ditto</b> <b>Article 14: Clarify that the DAS must communicate with both (2) jetties.</b>	<i>This request is cancelled by Bechtel with design change notice for Sabine Pass Phase 1.</i>			<b>None</b>
46	<b>Ditto</b> <b>Article 15: The specification revisions listed in Exhibit D are the basis of the subcontract.</b> <b>In many cases these specifications have been revised to make cosmetic changes that do not impact the subcontractor. Therefore, be aware that the current subcontract does not include the most current project specification revisions.</b>	Our estimation is based on Exhibit F- J in our proposal dated January 12, 2006.		<b>Agreed.</b>	<b>None</b>

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
47	General	Temporary Power/Water/Phone	The scope includes an allowance for the provision of construction power, water, and phone service. We recognize that infrastructure will be in place to support phase 1 & 2 activities and believe that it is beneficial to utilize the existing utilities rather than duplicating the costs for stand-alone utilities.	<b>The construction power and phone service for the office and warehouse area will be supplied by Bechtel as per Exhibit B SC-4.</b>  <b>TANK CONTRACTOR will provide construction power generators in the LNG Tank area.</b>  <b>PURCHASER will provide diesel fuel for the main generator at the day tank.</b>  <b>The TANK CONTRACTOR should supply water for construction and potable water for field employees.</b>	None
48	General	Construction Dock	The scope assumes that we will be granted permission to ship materials to the Cheniere-provided construction dock and be provided reasonable access to receive materials.  Furthermore, the scope assumes that the Cheniere will provide a crane with an operator for unloading materials at the construction dock.	<b>Agreed.</b>	None
49	General	Background Checks	The scope does not include costs associated with performing background checks on employees or potential hires.	<b>Agreed.</b>	None
50	Flow meter accuracy	Our price of flow meter is based on the accuracy is +/- 2% in the condition of design flow rate.		<b>Agreed with 2% accuracy</b>	None

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
51	Bechtel Specification "SPECIFICATION FOR PRESTRESSED CONCRETE PILES (25027-001-3PS-CP00-F0001)" Section 3.1.1 "Concrete shall have a minimum 28 day compressive strength of 8,000 psi with water /cement ratio not to exceed 0.35."	Our estimation is based on the condition that Concrete compressive strength for pre-stressed concrete pile is 6,500 psi which is applied in Phase 1 instead of 8,000 psi per Bechtel specification.		<i>Agreed</i>	<b>None</b>
52	Adjustment of pile length, and number of piles	We have designed the pile length based on geotechnical investigation report. However, we will adjust the pile length and pile numbers according to test pile report. In case the quantity of pile would increase, its cost will be adjusted.	<i>Total design pile length excluding margin length required for construction is as follows. S-104 82'-6" S-105 .....87'</i>	<i>Agreed</i>	<b>None</b>
53	Civil design schedule	Our civil design schedule does not expect the duration of approval process for pile design and foundation design.		<i>For civil design, the Owner think EPC's approval/confirmation (10 working days) is required.</i>	<b>None</b>
54	<i>The following specifications were requested by the Owner instead of coal tar emulsion underside of outer tank bottom plates in the Jan.25-27 th 2006 meeting. 1) Remove the protective coating on the underside of the outer shell bottom plate 2) Add a silicon sealant around the circumference of the outer shell bottom plate. 3) Incorporate concrete slope along the outer circumference of the pile cap to facilitate drainage.</i>	1) <i>Diamond LNG/ZCC have removed the protective coating on the underside of the outer bottom plate.</i> 2) <i>Diamond LNG/ZCC have added a sealant along the circumference of the outer edge of the bottom plate to protect against corrosion.</i> 3) <i>Diamond LNG/ZCC have revised the pile cap design to slope along the outer edge to facilitate drainage. Please refer to foundation drawing DA-D1501-3</i>	<i>Item 7 on Action Item list</i>  <i>Item 8 on Action Item list</i>  <i>Item 9 on Action Item list</i>	<i>OK. Acceptable</i>	<b>None</b>

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
55	<i>The following specification was requested by the Owner in the Jan.25-27 th 2006 meeting.  Reduce radiography on the outer shell to 100 shots per tank.</i>	<i>ZCC has reduced the number of radiography shots on the outer carbon steel shell to 200 total shots.</i>	<i>Item 13 on Action Item list</i>	<i>Agreed, however, PURCHASER will be involved with the coordination of the shots.  API 650 shall be used as the guideline for locations of radiographs. The number of shots shall not exceed 100 per tank unless quality of welds dictates additional shots.</i>	<b>None</b>
56	<i>The Owner requires PCT as the manufacturer of the hoist for the In-Tank Pumps in the Jan.25-27 th 2006 meeting.</i>	<i>Diamond LNG will purchase jib crane from PCT per the Owner's preference.</i>	<i>Item 17 on Action Item list</i>	<i>Agreed</i>	<b>None</b>
57	<i>The Owner requested to confirm the lightning protection requirements for phase 1 tanks and conform phase 2 tanks to the same scope.</i>	<i>No Lighting Rod will be provided in accordance with NFPA 59 A 10.7.4 (2006) and NFPA 780 7.4.1.1 (2004). On the other hand, 10 numbers of ground terminals will be provided in accordance with NFPA 780 7.1.4.4 (c) (2004) It is the same as Phase1 tank.</i>	<i>Item 18 on Action Item list</i>	<i>Follow phase1</i>	<b>None</b>



Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
58	<i>Diamond minimized engineering work for Phase 2, taking account of using duplication of Phase 1 drawing/documents on the Feb. 1st 2006 meeting.</i>	<p><i>Diamond LNG deducts engineering cost (US\$59,400) from our price under the condition ;</i></p> <ol style="list-style-type: none"> <li><i>Our price is based on P&amp;ID attached in Technical Proposal. All engineering cost incurred by any changes including dry chemical system made after P&amp;ID attached in Technical Proposal shall be compensated additionally and separately.</i></li> <li><i>Diamond LNG have to procure the piping from September 5, 2006 based on our proposal schedule and start the piping engineering work from July 1, 2006. Therefore DLNG request to fix P&amp;ID before July 1, 2006. If P&amp;ID des not fix until July 1, 2006, we will submit the additional cost if necessary.</i></li> <li><i>Cheneire's approval for any drawings at tank #4 &amp; #5 shall not be required (Except civil drawing).</i></li> </ol>	<p><i>Item 23 on Action Item list</i></p> <p><i>Our engineering cost is subjected to no-change of P&amp;ID after July 1, 2006.</i></p> <p><i>However, Bechtel is going to change their P&amp;ID as of June 2006.</i></p> <p><i>We still have a possibility of cost change.</i></p>	<i>P&amp;ID for information will be issued on July 15 for phase2.</i>	<i>To be confirmed later</i>
59	<p><i>The Owner request to study to change painting system of outside of outer tank.</i></p> <p><i>For example, study to apply 1st primer at fabrication shop (then Zachry to apply 2nd &amp; 3rd primer.)</i></p>	<p><i>The painting specification for outside of tank is 2coat system and We will carry out as follows.</i></p> <p><i>Mill shop primer : 15micron zinc primer (By DLLC)</i></p> <p><i>1st coat: Organic Zinc Epoxy Primer 2.5-4 mils(64-102μ) by Zachry</i></p> <p><i>2<sup>nd</sup> coat.. Aliphatic polyurethane 1.2-2.5mils(31-64μ) byZachry</i></p>	<i>Item 25 on Action Item list</i>	<i>No comments</i>	<i>None</i>
60	<i>Review laydown area and parking area for Phase 2.</i>	<i>Under negotiation</i>	<i>Item 35 on Action Item list</i>		<i>None</i>
61	<i>Pipe stiffener</i>	<i>Pipe stiffener for In- let line is required against water hammer load by design-changed notice.</i>	<i>The scope has been updated.</i>	<i>Follow phase 1.</i>	<i>None</i>
62	<i>P&amp;ID change from the P&amp;ID in the technical proposal dated January 12, 2006 to the latest P&amp;ID attached in Exhibit J of Phase_1 based on Rev 000.</i>	<p><i>The following specification is mainly changed.</i></p> <ul style="list-style-type: none"> <li><i>N2 injection</i></li> <li><i>Nitrogen snuffing</i></li> <li><i>Discretionary vent</i></li> <li><i>Pump cable seal (N2 seal)</i></li> <li><i>E&amp;I Bechtel designed changed</i></li> </ul>	<p><i>The scope has been updated.</i></p> <p><i>Our proposal and estimation is based on P&amp;ID attached in Exhibit J.</i></p>	<i>Follow phase 1</i>	<i>None</i>

Exhibit H Technical Clarification Sheet

Item	Subject	Diamond/ZCC Comment	Clarification	Cheniere's response	Cost Adjustment
63	<i>Gas detection system</i>	<i>Scope of Gas detector is changed from Subcontractor to Bechtel in Sabine Pass Phase 1. We would like to change scope of gas detector from us to the Owner for Sabine Pass Phase 2.</i>	<i>We will submit adjustment cost reduction based on the following scope of works. Gas Detector – Cheniere (Bechtel Scope) Cable – Dlamond/ZCC Installation/Wiring – Diamond/ZCC</i>	<i>Follow phase 1</i>	<i>None.</i>
64	<i>Exhibit D – Section 3.3 – Pile Static Load Test</i>	<i>Plan for static tests to clearly define the relationship between static and dynamic test results. After allowing sufficient time for full setup after re-tap, perform static axial compressive load test on a minimum of three (3) of the six (6) PDA tested piles for each tank. Static load tests should be conducted to clearly define the failure load. Static load test should be conducted per ASTM D 1143.</i>	<i>As per the SPLNG Weekly Coordination meetings, and in accordance with the request to revise our schedule to account for a July NTP date while not impacting the March 2009 Guaranteed RFCD Date, the schedule for the test pile program is based on the “quick load” method for the static test rather than the standard load method.</i>	<i>The procedures submitted by TANK CONTRACTOR references the standard load method; however, PURCHASER has agreed to accept the quick load test method.</i>	<i>None</i>

SABINE PASS ADDITIONAL TANK PROJECT

Exhibit H rev. 003

June 19, 2006

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EXHIBIT 'I'

FOR

LNG TANKS

[Diamond LNG deliverable with Approval status as of June 23 2006]

June 23

002 23 June. 06 Added the information of the latest status  
001 20 Dec. 05 Civil drawing, purchase specification and detail are deleted  
000 ISSUED FOR PROPOSAL

<u>NO</u>	<u>DATE</u>	<u>REASON FOR REVISION</u>	<u>BY</u>	<u>CK'D</u>	<u>APPR</u>	<u>APPR</u>
		Diamond LNG deliverable with Approval status as of June 23 2006				REV.
		SP LNG PHASE 2 EXPANSION TERMINAL PROJECT				002

MHI - ENGINEERING  
SUBMITTAL SCHEDULE

BY: YSM  
REV: 0

Bechtel Document Number	Number	ITEM	Submittal data to Bechtel	Bechtel Return Data	Submittal data to Bechtel	Bechtel Return Data	Rev	Approval Status
25027-001-V11-MTD0-00138	DA-A1500	STAGE FOR PRESSURE/VACUUM RELIEFS	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00139	DA-A1501	INSTRUMENT STAGE	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00140	DA-A1502	MANHOLE STAGE	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00141	DA-A1505	ROOF TOP STAGE	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00216	DA-A1506	HOIST RAIL FOR PRV & VB	21-Nov-05	06-Jan-06	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00478	DA-A1509	DAVIT FOR PRV & VB	11-Mar-06	11-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00142	DA-A1510	ROOF OUTER CIRCUMFERENTIAL WALKWAY (1/2)	06-Oct-05	14-Dec-05	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00143	DA-A1511	ROOF OUTER CIRCUMFERENTIAL WALKWAY (2/2)	06-Oct-05	14-Dec-05	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00144	DA-A1520	ROOF STAIRWAYS (1/2)	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00145	DA-A1521	ROOF STAIRWAYS (2/2)	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00146	DA-A1530	EMERGENCY LADDER	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00147	DA-A1531	LADDER IN MANHOLE	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00170	DA-A1550	GRATING ARRANGE. ROOF CIRCUM. WALKWAY	07-Oct-05	14-Dec-05	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00148	DA-A1551	GRATING ARRANGEMENT OF INSTRUMENT STAGE	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00149	DA-A1552	GRATING ARRANGEMENT OF MANHOLE STAGE	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00150	DA-A1553	GRATING ARRANGEMENT OF PRV & VB STAGE	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00151	DA-A1554	GRATING ARRANGEMENT OF ROOF TOP STAGE	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00171	DA-A1555	GRATING ARRANGEMENT OF SPIRAL STAIRWAY	07-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00217	DA-A1556	GRATING ARRANGEMENT OF SUPPORT TOWER	21-Nov-05	06-Jan-06				Code 1:Work way proceed
25027-001-V11-MTD0-00152	DA-A1557	GRATING ARRANGEMENT OF EMERGENCY LADDER	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00153	DA-A1558	GRATING ARRANGEMENT OF ROOF STAIRWAY	06-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00091	DA-A4400	LOADING DATA OF SUPPORT TOWER	12-Sep-05	01-Dec-06				Code 1:Work way proceed
25027-001-V11-MTD0-00219	DA-A4501	SUPPORT TOWER (2/5)	21-Nov-05	06-Jan-06				Code 1:Work way proceed
25027-001-V11-MTD0-00220	DA-A4502	SUPPORT TOWER (3/5)	21-Nov-05	06-Jan-06				Code 1:Work way proceed
25027-001-V11-MTD0-00221	DA-A4502	SUPPORT TOWER (4/5)	21-Nov-05	06-Jan-06				Code 1:Work way proceed
25027-001-V11-MTD0-00222	DA-A4502	SUPPORT TOWER (5/5)	21-Nov-05	06-Jan-06				Code 1:Work way proceed
25027-001-V11-MTD0-00155	DA-A5500	INNER LADDER (1/2)	07-Oct-05	15-Dec-05	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed

MHI - ENGINEERING  
SUBMITTAL SCHEDULE

BY: YSM  
REV: 0

25027-001-V11-MTD0-00157	DA-A5501	INNER LADDER (2/2)	07-Oct-05	15-Dec-05	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00154	DA-A5505	SPIRAL STAIRWAY	06-Oct-05	14-Dec-05	12-May-06	06-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00481	DA-A5700	OPERATION STAGE FOR INLET LINE FLOW ELEMENT(1/2)	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00482	DA-A5701	OPERATION STAGE FOR INLET LINE FLOW ELEMENT(2/2)	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00484	DA-A5703	OPERATION STAGE FOR GNG LINE(1/2)	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00485	DA-A5704	OPERATION STAGE FOR GNG LINE(2/2)	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00486	DA-A5705	OPERATION STAGE FOR OUTLET LINE VALVE(1/2)	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00487	DA-A5706	OPERATION STAGE FOR OUTLET LINE VALVE(2/2)	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00488	DA-A5707	OPERATION STAGE FOR INLET LINE CV	11-Mar-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00489	DA-A5708	OPERATION STAGE FOR PI&TE OF INLET LINE	15-May-06	04-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00034	DA-C1400	CALCULATION SHEET OF INNER TANK	27-Jun-05	12-Jul-05				Code 1:Work way proceed
25027-001-V11-MTD0-00082	DA-C1500	INNER TANK SHELL PLATE	22-Aug-05	30-Aug-05	10-Apr-06	—	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00083	DA-C1510	INNER TANK BOTTOM PLATE & ANNULAR PLATE(1/2)	22-Aug-05	30-Aug-05				Code 1:Work way proceed
25027-001-V11-MTD0-00128	DA-C1511	INNER TANK BOTTOM PLATE & ANNULAR PLATE(2/2)				26-Apr-06		Code 1:Work way proceed
25027-001-V11-MTD0-00084	DA-C1520	INNER TANK SHELL STIFFENER	22-Aug-05	30-Aug-05				Code 1:Work way proceed
25027-001-V11-MTD0-00156	DA-C2400	CALCULATION SHEET OF OUTER TANK (THEORETICAL ANALYSIS)	15-Sep-05	15-Oct-05	16-Nov-05	26-Jan-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00096	DA-C2404	CALCULATION SHEET OF HOIST RAIL (ON INSIDE OF ROOF)	10-Sep-05	05-Oct-05				Code 1:Work way proceed
25027-001-V11-MTD0-00085	DA-C2500	OUTER TANK SHELL PLATE	22-Aug-05	30-Aug-05				Code 1:Work way proceed
25027-001-V11-MTD0-00086	DA-C2510	OUTER TANK SHELL STIFFENER	22-Aug-05	30-Aug-05	03-Oct-05	28-Oct-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00087	DA-C2520	OUTER TANK BOTTOM & ANNULAR PLATE	22-Aug-05	30-Aug-05	01-Nov-05	02-Dec-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00088	DA-C2530	OUTER TANK ANCHOR STRAP	24-Aug-05	30-Aug-05	17-Nov-05	08-Dec-05	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00097	DA-C2540	ROOF STEEL SKELETON	10-Sep-05	05-Oct-05				Code 1:Work way proceed
25027-001-V11-MTD0-00276	DA-C2545	REINFORCING OF ROOF PLATE	02-Dec-05	20-Dec-05	11-Mar-06	11-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00098	DA-C2550	HOIST RAIL (ON INSIDE OF ROOF)	10-Sep-05	05-Oct-05	31-Oct-05	02-Dec-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00099	DA-C2560	ROOF STEEL PLATE	10-Sep-05	05-Oct-05				Code 1:Work way proceed
25027-001-V11-MTD0-00100	DA-C2570	COMPRESSION RING PLATE	10-Sep-05	05-Oct-05				Code 1:Work way proceed
25027-001-V11-MTD0-00313	DA-C3400	CALCULATION SHEET OF SUSPENDED DECK	—	—	23-Dec-05	10-Jan-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00065	DA-C3500	SUSPENDED DECK	01-Aug-05	—	12-May-06	25-May-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00066	DA-C3510	SUSPENDED DECK OPENING AND COVERING (1/2)	01-Aug-05	10-Aug-05	12-May-06	25-May-06	Rev2	Code 1:Work way proceed

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25027-001-V11-MTD0-00067	DA-C3511	SUSPENDED DECK OPENING AND COVERING (2/2)	01-Aug-05	10-Aug-05	12-May-06	25-May-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00314	DA-C3520	SUSPENDED DECK SUSPENSION RODS	—	—	12-May-06	25-May-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00055	DA-C3530	WALKWAY ON SUSPENDED DECK	12-Jul-05	09-Aug-05	12-May-06	25-May-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00307	DA-C3540	PERLITE RETAINER	15-Dec-05	24-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00492	DA-C4100	MATERIAL SPECIFICATION OF CELLULAR GLASS	18-Mar-06	28-Mar-06				Code 1:Work way proceed
27027-001-V11-MTD0-00493	DA-C4103	MATERIAL SPECIFICATION OF PERLITE INSULATION	18-Mar-06	29-Mar-06				Code 1:Work way proceed
25027-001-V11-MTD0-00035	DA-C4400	CALCULATION SHEET OF BOTTOM FOAMGLAS INSULATION STRENGTH	27-Jun-05	12-Jul-05				Code 1:Work way proceed
25027-001-V11-MTD0-00036	DA-C4401	CALCULATION SHEET OF PERLITE COMPACTION PRESSURE	27-Jun-05	12-Jul-05				Code 1:Work way proceed
25027-001-V11-MTD0-00308	DA-C4500	ARRANGEMENT OF BOTTOM INSULATION	15-Dec-05	24-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00104	DA-C5400	CALCULATION SHEET OF MANHOLES	10-Sep-05	05-Oct-05	12-May-06		Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00196	DA-C5401	CALCULATION SHEET OF SLEEVES	28-Oct-05	10-Jan-06			Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00056	DA-C5403	CALCULATION SHEET OF REINFORCEMENT OF NOZZLE OPENING	12-Jul-05					Code 1:Work way proceed
25027-001-V11-MTD0-00165	DA-C5500	ROOF MANHOLES	07-Oct-05	15-Dec-05	—	11-Apr-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00123	DA-C5510	PERLITE NOZZLE	27-Sep-05	06-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00124	DA-C5600	SIDE MANHOLES	27-Sep-05	06-Dec-05	15-Dec-05	24-Dec-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00001	DA-G1000	Seismic design philosophy	04-Feb-05	23-Feb-05	12-May-05	26-May-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00002	DA-G1001	Outer tank shell design philosophy	04-Feb-05	23-Feb-05	12-May-05	26-May-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00003	DA-G1002	Outer tank roof design philosophy	04-Feb-05	23-Feb-05	01-Jul-05	21-Jul-05	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00004	DA-G1003	Inner tank design philosophy	04-Feb-05	23-Feb-05	12-May-05	26-May-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00005	DA-G1004	Spill protection design philosophy	04-Feb-05	23-Feb-05				Code 1:Work way proceed
25027-001-V11-MTD0-00006	DA-G1005	Piping design philosophy	04-Feb-05	23-Feb-05	11-Mar-06	30-Mar-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00012	DA-G1100	MATERIAL SPECIFICATION OF 9% NICKEL STEEL PLATE	11-May-05	18-May-05	29-Jun-05	12-Jul-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00041	DA-G1150	CRYOGENIC THERMAL TEST REPORT OF 9% NI PL PRIMER	24-Jun-05	22-Jul-05				Code 1:Work way proceed
25027-001-V11-MTD0-00007	DA-G1200	GENERAL ARRANGEMENT OF TANK	12-May-05	31-May-05	29-Jun-05	12-Jul-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00024	DA-G1400	PRELIMINARY LOADING DATA	31-May-05	24-Jun-05				Code 1:Work way proceed
25027-001-V11-MTD0-00092	DA-G1401	TANK LOADING DATA	12-Sep-05	02-Dec-06				Code 1:Work way proceed
25027-001-V11-MTD0-00019	DA-G1402	CALCULATION SHEET OF BOIL OFF GAS	31-May-05	31-Aug-05				Code 1:Work way proceed
25027-001-V11-MTD0-00020	DA-G1411	CALCULATION SHEET OF TANK COOL DOWN	31-May-05	24-Jun-05				Code 1:Work way proceed
25027-001-V11-MTD0-00010	DA-G2511	GENERAL ARRANGEMENT OF ACCESSORIES	16-May-05	31-May-05				Code 1:Work way proceed

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25027-001-V11-MTD0-00011	DA-G3511	GENERAL ARRANGEMENT OF ROOF NOZZLES & TANK ACCESSORIES	12-May-05	26-May-05	24-Oct-05	02-Dec-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00022	DA-P0400	PRELIMINARY ROOF NOZZLE LOADING DATA	31-May-05	24-Jun-05				Code 1:Work way proceed
25027-001-V11-MTD0-00057	DA-P0520	PIPING ARRANGEMENT OF COOL DOWN SPRAY	12-Jul-05					Code 1:Work way proceed
	DA-P0900	Piping (PDS Model 30%)	21-Sep-05	11-Oct-05				Code 1:Work way proceed
	DA-P0900	Piping (PDS Model 60%)	20-Jan-06	25-Jan-06				Code 1:Work way proceed
	DA-P0900	Piping (PDS Model 90%)	11-Mar-06	27-Mar-06				Code 1:Work way proceed
25027-001-V11-MTD0-00206	DA-P1100	MATERIAL SPECIFICATION OF STAINLESS STEEL PIPE	—	—	28-Oct-05	10-Nov-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00207	DA-P1101	MATERIAL SPECIFICATION OF STAINLESS STEEL FLANGE	—	—	28-Oct-05	10-Nov-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00208	DA-P1102	MATERIAL SPECIFICATION OF STAINLESS STEEL FITTING	—	—	28-Oct-05	10-Nov-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00209	DA-P1103	MATERIAL SPECIFICATION OF CRYOGENIC PRESSURE PIPING	—	—	28-Oct-05	10-Nov-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00037	DA-P1110	MATERIAL SPECIFICATION OF PRESSURE RELIEF & VACUME BREAKER	27-Jun-05	12-Jul-05	04-Feb-06	19-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00038	DA-P1111	MATERIAL SPECIFICATION OF CRYOGENIC BUTTERFLY VALVES	27-Jun-05	12-Jul-05	27-Sep-05	12-Oct-05	Rev3	Code 1:Work way proceed
25027-001-V11-MTD0-00214	DA-P1113	MATERIAL SPECIFICATION OF CRYOGENIC CHECK VALVES	16-Nov-05	23-Dec-05	12-Apr-06	10-May-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00470	DA-P1114	MATERIAL SPECIFICATION OF PIPING THERMAL RELIEF VALVE	11-Mar-06	25-May-06				Code 1:Work way proceed
25027-001-V11-MTD0-00017	DA-P1400	CALCULATION SHEET OF PRV & VB CAPACITY	16-May-05	31-May-05	11-Feb-06	05-Apr-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00021	DA-P1401	PRELIMINARY PIPING STRESS ANALYSIS	31-May-05	24-Jun-05			—	Code 1:Work way proceed
25027-001-V11-MTD0-00053	DA-P1402	CALCULATION SHEET OF PUMP WELL DESIGN	07-Jul-05	27-Jul-05	18-Aug-05	20-Sep-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00058	DA-P1500	PUMP WELL	12-Jul-05	09-Aug-05	11-Feb-06	05-Apr-06	Rev3	Code 1:Work way proceed
25027-001-V11-MTD0-00471	DA-P1520	PUMP STRAINER(1/2)	11-Mar-06	10-May-06				Code 1:Work way proceed
25027-001-V11-MTD0-00472	DA-P1521	PUMP STRAINER(2/2)	11-Mar-06	10-May-06				Code 1:Work way proceed
25027-001-V11-MTD0-00392	DA-P1600	INVESTIGATION OF ALUMINIUM PRESSURE RELIEF VALVE	21-Feb-06	19-Apr-06				Code 1:Work way proceed
25027-001-V11-MTD0-00393	DA-P1601	INVESTIGATION OF PRESSURE RELIEF VALVE SIZE	21-Feb-06					Code 1:Work way proceed
25027-001-V11-MTD0-00215	DA-P2110	MATERIAL SPECIFICATION OF VALVE WITHOUT CRYOGENIC			16-Nov-05	23-Dec-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00199	DA-P4400	CALCULATION SHEET OF WATER DELUGE FLOW	28-Oct-05	—	23-Dec-05	19-Jan-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00193	DA-P5500	STANDARD PIPING GROOVE	25-Oct-05	02-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00158	DA-P5510	ROOF NOZZLE (SLEEVE) (1/3)	07-Oct-05	05-Dec-05	16-May-06	27-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00159	DA-P5511	ROOF NOZZLE (SLEEVE) (2/3)	07-Oct-05	15-Dec-05	16-May-06	27-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00160	DA-P5512	ROOF NOZZLE (SLEEVE) (3/3)	07-Oct-05	15-Dec-05	12-May-06	27-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00161	DA-P5513	DETAIL OF NOZZLE (PRV & VB) (1/2)	07-Oct-05	15-Dec-05	12-May-06	27-Jun-06	Rev2	Code 1:Work way proceed

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25027-001-V11-MTD0-00162	DA-P5514	DETAIL OF NOZZLE (PRV & VB) (2/2)	07-Oct-05	15-Dec-05	12-May-06	27-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00125	DA-P5515	DETAIL OF NOZZLE (INSULATION PURGE 1/2)	27-Sep-05	06-Dec-05	11-Mar-06	10-May-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00126	DA-P5516	DETAIL OF NOZZLE (INSULATION PURGE 2/2)	27-Sep-05	06-Dec-05	11-Mar-06	10-May-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00127	DA-P5517	DETAIL OF NOZZLE (INSTRUMENT)	27-Sep-05	11-Nov-05	23-Jun-06	28-Jun-06	Rev4	Code 1:Work way proceed
25027-001-V11-MTD0-00172	DA-P5518	Detail of Nozzle (SPARE NOZZLE)	07-Oct-05	14-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00311	DA-P5519	DETAIL OF NOZZLE (HIGH HIGH LEVEL ALARM)	23-Dec-05	19-Jan-06	11-Mar-06	10-May-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00163	DA-P5520	ROOF NOZZLE (LIQUID LEVEL GAUGE)	07-Oct-05	15-Dec-05	23-Dec-05	10-Jan-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00475	DA-P5524	DETAIL OF NOZZLE(PURGE)	11-Mar-06	10-May-06			Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00200	DA-P5540	PIPING SUPPORT IN TANK	28-Oct-05	20-Dec-05			Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00201	DA-P5541	PIPING SUPPORT FOR NOZZLE	28-Oct-05	20-Dec-05	11-Mar-06	10-May-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00203	DA-P5543	PIPING SUPPORT FOR TANK GAUGE	28-Oct-05	20-Dec-05		10-May-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00204	DA-P5544	PIPING SUPPORT FOR BOTTOM FILLING	28-Oct-05	20-Dec-05			Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00205	DA-P5545	PIPING SUPPORT FOR PRV TAIL PIPING	28-Oct-05	20-Dec-05	15-May-06		Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00476	DA-P5546	PIPING SUPPORT FOR LIQUID LEVEL GAUGE	11-Mar-06	10-May-06				Code 1:Work way proceed
25027-001-V11-MTD0-00477	DA-P5547	PIPING SUPPORT FOR INSTRUMENT NOZZLE	11-Mar-06	10-May-06			Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00016	DA-P6100	PURCHASE SPECIFICATION OF LNG PUMP LIFTING DEVICE	12-May-05	26-May-05	14-Feb-06	05-Apr-06	Rev4	Code 1:Work way proceed
25027-001-V11-MTD0-00275	DA-P6200	PURCHASE SPECIFICATION OF PRV&VB LIFTING MANUAL DEVICE	02-Dec-05	20-Dec-05				Code 1:Work way proceed
25027-001-V11-MTD0-00049	EA-E1003	ELECTRICAL HAZARDOUS AREA CLASSIFICATION FOR LNG STORAGE	01-Jul-05	22-Jul-05	15-Aug-05	08-Nov-05	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00634	EA-E1003	HAZARDOUS AREA CLASSIFICATION	26-May-06	27-Jun-06				Code 1:Work way proceed
25027-001-V11-MTD0-00042	EA-E1151	MATERIAL SPECIFICATION OF TANK LIGHTING AND RECEPTABLES	01-Jul-05	22-Jul-05	25-May-06		Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00044	EA-E1153	MATERIAL SPECIFICATION OF JUNCTION BOX FOR ELECTRIC	01-Jul-05	22-Jul-05	25-May-06		Rev3	Code 1:Work way proceed
25027-001-V11-MTD0-00045	EA-E1402	Calculation Sheet of Tank Grounding	01-Jul-05	22-Jul-05				Code 1:Work way proceed
25027-001-V11-MTD0-00070	EA-E1501	WIRING DIAGRAM OF ELECTRICAL EQUIPMENT	06-Aug-05	14-Sep-05	25-May-06	26-Jun-06	Rev4	Code 1:Work way proceed
25027-001-V11-MTD0-00050	EA-E1503	ARRANGEMENT OF TANK EARTHING SYSTEM	01-Jul-05	22-Jul-05	08-Dec-05	26-Jan-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00121	EA-E1504	ARRANGEMENT ELEC CABLE LADDER & TRAY	27-Sep-05	10-Nov-05	25-May-06		Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00133	EA-E1601	Installation Drawing of Lighting Fixtures	04-Oct-05	12-Nov-05	25-May-06	27-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00134	EA-E1602	Installation Drawing of Lighting Panel Board and Receptacle	04-Oct-05	12-Nov-05	25-May-06	27-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00071	EA-E1604	Installation Drawing of Tank Earthing System	06-Aug-05	14-Sep-05	08-Dec-05	26-Jan-06		Code 1:Work way proceed
25027-001-V11-MTD0-00136	EA-E1605	Installation Drawing of Cable Ladder and Tray	04-Oct-05	12-Nov-05		27-Jun-06	Rev2	Code 1:Work way proceed



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25027-001-V11-MTD0-00137	EA-E1606	Installation Drawing of Cable	04-Oct-05	12-Nov-05	25-May-06	05-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00094	EA-E1607	Installation Drawing of Static Electricity Removal Device	10-Sep-05	09-Nov-05	25-May-06	27-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00072	EA-E1611	Embedment of Bottom Slab	06-Aug-05	14-Sep-05	13-Dec-05	10-Jan-06		Code 1:Work way proceed
25027-001-V11-MTD0-00081	EA-I1004	Schedule of Explosion Protection Certification for Instrumental Equipment	12-Aug-05	25-Oct-05	25-May-06	27-Jun-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00046	EA-I1005	LIST OF PAINTING COLOR FOR ELECTRICAL EQUIPMENTS	01-Jul-05	22-Jul-05				Code 1:Work way proceed
25027-001-V11-MTD0-00073	EA-I1102	Purchase Specification of Tank Thermometer	06-Aug-05	14-Sep-05	25-May-06	27-Jun-06	Rev3	Code 1:Work way proceed
25027-001-V11-MTD0-00074	EA-I1103	Purchase Specification of Instrument Transmitter	06-Aug-05	14-Sep-05	25-May-06	27-Jun-06	Rev4	Code 1:Work way proceed
25027-001-V11-MTD0-00075	EA-I1104	Purchase Specification of Pressure Gauge	06-Aug-05	14-Sep-05	12-Apr-06	27-Jun-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00076	EA-I1105	Purchase Specification of Flowmeter	06-Aug-05	14-Sep-06	25-May-06	27-Jun-06	Rev4	Code 1:Work way proceed
25027-001-V11-MTD0-00122	EA-I1503	Arrangement of Instrument Cable Ladder & Tray	27-Sep-05	10-Nov-05	25-May-06		Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00167	EA-I1602	Installation Drawing of Cool Down Thermometers	07-Oct-05	02-Nov-05	25-May-06		Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00168	EA-I1603	Installation Drawing of Suspended Deck Thermometers	07-Oct-05	02-Nov-05	25-May-06		Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00169	EA-I1604	Installation Drawing of Leak Detect Thermometers	07-Oct-05	02-Nov-05	25-May-06		Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00636	EA-I1701	Manufacturer Dwg. of Tank Gauging System	15-May-06	27-Jun-06				Code 1:Work way proceed
25027-001-V11-MTD0-00637	EA-I1702	Manufacturer Dwg. of Cool Down Thermometer	15-May-06	27-Jun-06				Code 1:Work way proceed
25027-001-V11-MTD0-00538	FA-G1300	FABRICATION PROCEDURE FOR ESSENTAIL 9% NI STEEL STRUCTURE	11-Mar-06	31-Mar-06	05-Apr-06	13-Apr-06	Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00395	QA-G1001	QUALITY PLAN FOR MHI WORKS	25-Feb-06	—	19-May-06		Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00554	QA-G1023	IDENTIFICATION AND TRACEABILITY(9%Ni STEEL)	—	—	19-May-06		Rev1	Code 1:Work way proceed
25027-001-V11-MTD0-00312	QA-G1309	POSITIVE MATERIAL IDENTIFICATION PROCEDURE	—	—	07-Apr-06	25-May-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00555	QA-G1351	INSPECTION PROCEDURE FOR TANK FABRICATION (9% STEEL)	—	—	—	18-Apr-06	Rev2	Code 1:Work way proceed
25027-001-V11-MTD0-00664	EA-I1706	Manufacturer Dwg. of Pressure Gauge	25-May-06	14-Mar-06				Code 1:Work way proceed
25027-001-V11-MTD0-00103	DA-A4401	CALCULATION SHEET OF PIPE SUPPORT TOWER	10-Sep-06	05-Oct-05			Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00218	DA-A4500	SUPPORT TOWER (1/5)	21-Nov-05	06-Jan-06			Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00213	DA-A5410	CALCULATION SHEET OF SPILL PROTECTION SYSTEM	16-Nov-05	19-Jan-06	12-May-06		Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00479	DA-A5510	SPILL PROTECTION (1/3)	11-Mar-06	11-Apr-06			Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00480	DA-A5511	SPILL PROTECTION (2/3)	11-Mar-06	11-Apr-06			Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00480	DA-A5512	SPILL PROTECTION (3/3)	11-Mar-06	11-Apr-06			Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00101	DA-C2401	CALCULATION SHEET OF OUTER TANK (FEM ANALYSIS)	10-Sep-05	27-Sep-05	16-May-06		Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00102	DA-C2402	CALCULATION SHEET OF OUTER TANK DOME ROOF	10-Sep-05	27-Sep-05	01-Jun-06		Rev2	Code 2:Revise & Resubmit Work way proceed

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27027-001-V11-MTD0-00470	DA-C4106	MATERIAL SPECIFICATION OF PUMP WELL ISOLATION	11-Mar-06	25-May-06		Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00567	DA-C4502	ARRANGEMENT OF SUSPENDE DECK INSULATION	24-Apr-06	25-May-06		Rev0	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00164	DA-C5402	CALCULATION SHEET OF THERMAL ANALYSIS FOR SLEEVES	07-Oct-05	15-Dec-05	12-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00273	DA-P0401	NOZZLE LOADING DATA ON ROOF	06-Dec-05	20-Dec-05	01-Jun-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00018	DA-P0500	DETAIL OF PIPING CONNECTION AT BATTERY LIMIT	16-May-05	31-May-05	12-May-06	Rev4	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00013	DA-P0501	P&I DIAGRAM LNG STORAGE TANK (FEED LINE) (S-101)	12-May-05	26-May-05	12-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00014	DA-P0502	P&I DIAGRAM LNG STORAGE TANK (DISCHARGE LINE) (S-101)	12-May-05	26-May-05	12-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00015	DA-P0503	P&I DIAGRAM INSTRUMENT (S-101)	12-May-05	26-May-05	12-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00274	DA-P1403	CALCULATION SHEET OF PROCESS PIPING STRESS/STRENGTH DESIGN	02-Dec-05	20-Dec-05	01-Jun-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00039	DA-P1501	LINE LIST(PROCESS)	27-Jun-05	12-Jul-05	12-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00197	DA-P1505	BOTTOM FILLING NOZZLE (1/2)	28-Oct-05	—		Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00198	DA-P1506	BOTTOM FILLING NOZZLE (2/2)	28-Oct-05	10-Jan-06		Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00089	DA-P1510	VALVE LIST(PROCESS)	24-Aug-05	12-Oct-05	12-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00090	DA-P2500	VALVE LIST(UTILITY)	24-Aug-05	12-Oct-05		Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00040	DA-P2501	LINE LIST(UTILITY)	27-Jun-05	12-Jul-05		Rev3	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00473	DA-P5521	DETAIL OF NOZZLE ( RADAR LIQUID LEVEL GAUGE)	11-Mar-06	10-May-06			Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00474	DA-P5522	DETAIL OF NOZZLE (LEVEL TEMPERATURE DENSITY GAUGE)	11-Mar-06	10-May-06			Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00202	DA-P5542	PIPING SUPPORT FOR PUMP WELL	28-Oct-05	20-Dec-05	15-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00026	EA-E1001	LIST OF ELECTRICAL EQUIPMENT	07-Jun-05	24-Jun-05		Rev4	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00027	EA-E1002	ELECTRICAL LOAD LIST	07-Jun-05	24-Jun-05		Rev4	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00069	EA-E1004	SCHEDULE OF EXPLOSION PROTECTION CERT FOR ELEC. EQUIPMENT	06-Aug-05	14-Sep-05	25-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00043	EA-E1152	MATERIAL SPECIFICATION OF AIRCRAFT WARNING LIGHT & CONTROLLER	01-Jul-05	22-Jul-05	25-May-06	Rev3	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00407	EA-E1154	MATERIAL SPECIFICATION OF ELECTRICAL CABLE	09-Feb-06	02-Mar-06	15-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00635	EA-E1156	MATERIAL SPECIFICATION OF HAND SWITHCES FOR LNG TANK PUMP	15-May-06	27-Jun-06			Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00132	EA-E1401	Calculation Sheet of Lighting Intensity	03-Oct-05	08-Nov-05	15-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00093	EA-E1502	ARRANGEMENT OF ELECTRICAL EQUIPMENT	10-Sep-05	07-Nov-05		Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00135	EA-E1603	Installation Drawing of Air Craft Warning Light	04-Oct-05	12-Nov-05	25-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00212	EA-E1610	Connection Diagram of Electrical Equipment	16-Nov-05	02-Dec-05		Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00025	EA-I1001	Instruments List of Process & Utility System	07-Jun-05	24-Jun-05		Rev4	Code 2:Revise & Resubmit Work way proceed

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25027-001-V11-MTD0-00052	EA-I1002	Schematic Diagram of Process & Utility System	01-Jul-07	27-Jul-05		Rev4	Code 2:Revise & Resubmit Work way proceed
27027-001-V11-MTD0-00339	EA-I1003	Signal Flow Diagram of Process & Utility System	07-Jan-06	28-Feb-06	31-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00047	EA-I1101	Purchase Specification of Tank Gauging System	01-Jul-05	22-Jul-05		Rev4	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00048	EA-I1156	Material Specification of Junction Box for Instrument	01-Jul-05	22-Jul-05		Rev2	Code 2:Revise & Resubmit Work way proceed
	EA-I1157	Material Specification of Cable for Instrument (Supplied by MSI)	10-Feb-06	08-Mar-06	26-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00077	EA-I1501	Wiring Diagram of Process & Utility System	14-Sep-05	29-Nov-05	31-May-06	Rev4	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00095	EA-I1502	Arrangement of Instrument Equipment (Include Utility System)	10-Sep-05	09-Nov-05	25-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00166	EA-I1601	Installation Drawing of Tank Gauging System	07-Oct-05	02-Nov-05		Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00129	EA-I1605	Installation Drawing of Junction Boxes	03-Oct-05	01-Nov-05	25-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00130	EA-I1606	Installation Drawing of Instrument Cable Ladder and Tray	03-Oct-05	01-Nov-05	25-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00341	EA-I1607	Hook Up Drawing	17-Jan-06	23-Feb-06			Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00131	EA-I1608	Installation Drawing of Instrument Cables	03-Oct-05	01-Nov-05	25-May-06	Rev2	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00283	EA-I1610	Connection Diagram of Process & Utility System	08-Dec-05	08-Feb-06			Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00396	EA-I1707	Manufacturer Dwg. of Flowmeter	<b>01-Mar-06</b>	<b>14-Mar-06</b>	<b>15-May-06</b>	Rev1	Code 2:Revise & Resubmit Work way proceed
25027-001-V11-MTD0-00539	QA-C1311	INSPECTION PROCEDURE FOR 9% NICKEL STEEL PLATE(INDUSTEEL)	—	—	19-May-06	Rev1	Code 2:Revise & Resubmit Work way proceed
	DA-A4505	TANK CONNECTION OF SUPPORT TOWER					
25027-001-V11-MTD0-00631	DA-A5520	CALCULATION SHEET OF SPIRALSTAIRWAY	15-May-06				
25027-001-V11-MTD0-00483	DA-A5702	OPERATION STAGE FOR MIN.FLOW RECYCLE LINE	15-May-06				
25027-001-V11-MTD0-00626	DA-C1530	INNER TANK BUCKLE FOR RESILIENT BLANKET	15-May-06				
25027-001-V11-MTD0-00318	DA-C4501	ARRANGEMENT OF SIDE INSULATION	23-Jun-06				
	DA-E5547	MATERIAL SPECIFICATION OF ELECTRICAL CABLE	02-Mar-06				
	DA-G6302	PROCEDURE FOR TANK COOL DOWN					
	DA-G6303	PROCEDURE FOR HYDROSTATIC/PNEUMATIC PRESSURE TEST					
	DA-G6304	PROCEDURE FOR PIPING PRESSURE TEST PLAN					
	DA-G6305	PROCEDURE FOR SITE CALIBRATION & TEST PROCEDURE FOR PRV & VB					
	DA-P0532	SUPPORT DRAWING OF PROCESS PIPING					
	DA-P1404	CALCULATION SHEET OF BOTTOM FILLING NOZZLE					
25027-001-V11-MTD0-00632	DA-P1405	CALCULATION SHEET OF PIPE FOR LEVEL GAUGE	15-May-06				
25027-001-V11-MTD0-00643	DA-P1502	Detail of Pad Plate for pump well	16-May-06				

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25027-001-V11-MTD0-00641	DA-P4401	CALCULATION SHEET OF HEAT RADIATION PRV	16-May-06		
	DA-P5110	SPECIFICATION OF PIPING INSULATION			
25027-001-V11-MTD0-00629	DA-P5525	DATAIL OF NOZZLE(ANNULAR APACE SAMPLING)	15-May-06		
25027-001-V11-MTD0-00630	DA-P5526	DATAIL OF NOZZLE(GNG INLET)		15-May-06	Rev1
25027-001-V11-MTD0-00644	DA-P5548	Piping support for discretionary vent	16-May-06		
	DA-P6400	CALCULATION SHEET OF JIB CRANE			
	DA-P6500	LNG PUMP LIFTING DEVICE			
	EA-E1155	Material Specification of Electric Bulk Materials			
	EA-E1801	Inspection Procedure of Electric Works			
	EA-I1158	Material Specification of Bulk Materials for Instrument Work			
	EA-I1504	LIST OF 9%Ni PLATES FOR EARTH BONDING AND INSTRUMENTATION		12-Apr-06	Rev2
25027-001-V11-MTD0-00638	EA-I1703	Manufacturer Dwg. of Leak Detection Thermometer	15-May-06		
25027-001-V11-MTD0-00639	EA-I1704	Manufacturer Dwg. of Thermometer (For Tank Gas Zone)	15-May-06		
	EA-I1705	Manufacturer Dwg. of Instrument Transmitter	16-May-06		
	EA-I1705	MANUFACTURER DWG.OF INSTRUMENT TRANSMITTER			
	EA-I1851	Inspection Procedure for Instrument Work			
	QA-C1312	INSPECTION PROCEDURE FOR 9%NICKEL STEEL PLATE (NIPPON STEEL CORPORATION)	09-Jun-06		

EXHIBIT ‘J’

FOR

LNG TANKS

[Diamond LNG deliverable drawing]

July 19

003	19July06	
002	23 June. 06	Added the latest drawing
001	20 Dec. 05	Civil drawing are revised
000		ISSUED FOR PROPOSAL

NO	DATE	REASON FOR REVISION	BY	CK'D	APPR	APPR REV.
		Diamond LNG deliverable drawing				
SP LNG PHASE 2 EXPANSION TERMINAL PROJECT						003

CHENIERE LNG PROJECT, SABINE PASS  
LNG STORAGE TANKS TECHNICAL DATA SHEET

(Metric unit)

(US unit)

**General Condition**

**Tank Numbers**

2

**Design Code**

API 620 (10TH Ed) & NFPA  
59A (2006 Ed)

**Capacity (Net) - Each**

160,000 m3

5,650,347ft3

**Design Condition**

Boil-off Rate

0.05% Vol/Day

Temperature

(-)165°C

(-)265°F

Tank Operating Pressure

—

Solar Radiation

31 MJ/m2

2730 Btu/ft2

Filling rate (Assumed)

12,000 m3/Hr

423,777ft3/Hr

Emptying rate (Assumed)

2,610 m3/Hr

92,172ft3/Hr

SSE

0.05(PGA)

0.05(PGA)

OBE

0.03(PGA)

0.03(PGA)

LNG level at Seismic condition

34.011m

111'-7"

**Foundation**

Type

Pile Supported Pile Cap Foundation

Outside diameter

84.583m

277'-6"

Height

0.610m

2'

Soil data

Geotechnical Investigation Phase\_2 Expansion Sabine LNG Impport Terminal Cameron Parish, Louisiana by Tolunay Wong Engineers dated July 2005.

**Inner Tank**

Type of Roof

Suspended Deck

Type of Bottom

Flat

Min Working Capacity

160,000 m3

5,650,347ft3

Tank Diameter

78.994m

259'-2"

Tank Height

34.900m

114'-6"

Max Design liquid Level

34.798m

114'-2"

HH liquid Level

34.011m

111'-7"

Max Operation Level

34.011m

111'-7"

Min Design liquid Level

1.194m

3'-11"

LL liquid Level

1.194m

3'-11"

Low Level Trip

1.143m

3'-9"

Hydrotest Water Level

21.285m (1.25 times of LNG load)

69'-10" (1.25 times of LNG load)

Operating Temperature

(-)165°C

(-)265°F

Design Specific Gravity

0.489

Corrosion Allowance

None

**Outer Tank**

Type of Roof

Dome

Type of Bottom

Flat

Inside Dia of Wall

81.000m

265'-9"

Wall Height

38.227m

125'-5"

Design Pressure

17.237kPa

2.50 psig

(-) 206.843Pa

(-) 0.03 psig

Operating Pressure

32.2°C

90°F

Design Temperature

35/-10°C

95/14°F

Ambient temperature

Corrosion Allowance

None

Design Wind Velocity

67.056m/s

150 mph

Pump Column support method

Suspended by Outer roof

CHENIERE LNG PROJECT, SABINE PASS  
LNG STORAGE TANKS TECHNICAL DATA SHEET

**STEEL MATERIAL**

<b>Inner tank</b>			
Shell		ASTM A553M TYPE1	
Shell Stiffener		ASTM A553M TYPE1	
Bottom		ASTM A553M TYPE1	
Annular Bottom		ASTM A553M TYPE1	
Suspended Deck		Al Alloy (5083-O or 6061-T6) or eq.	
Anchor Chair/Strap		NONE	
Suspended Deck Rods		Stainless Steel type 304 and A516 or eq.	
<b>Outer Tank</b>			
Shell		A516 Gr60 or A36 mode2	
Shell Stiffener		A516 Gr60 or A36 mode2	
Bottom Plates		A516 Gr60 or A36 mode2	
Compression Ring		ASTM A516 Gr.70 or eq.	
Roof Plate		ASTM A516 Gr.70 or eq.	
Roof Structure		ASTM A572 Gr.50 or eq.	
Anchor Chair/Strap		A36 or eq.	
<b>Appurtenances</b>			
<b>Nozzle Necks</b>			
<b>Pump Column</b>			
<b>Cryogenic line</b>			
<b>Nitrogen Gas line</b>			
<b>Instrument Air Piping</b>			
<b>Process Flanges</b>			
<b>Process Bolting</b>			
<b>Foundation</b>			
Concrete	27.58 Mpa Slab Concrete		4000 psi Slab Concrete
Re Bars		A 615 Gr 60	

**INSULATION Material**

<b>Inner Tank Ring Foundation</b>		CONCRETE RING BEAM
Upper		CELLULAR GLASS
Lower		Glass Fiber Blanket
<b>Inner Tank-Resilient Blanket</b>		Expanded Perlite
<b>Annular Space</b>		Glass Fiber Blanket
<b>Suspended Deck</b>		Glass Fiber Blanket
<b>Int. Piping - Dome Space</b>		CELLULAR GLASS
<b>External Piping &amp; Valves</b>		

**PAINTING**

<b>Inner Tank</b>		PRIMER only
Protection for Transportation		None
Removal Method		Excluded (Repaired by others)
Repair		
<b>Exterior Metallic Surface</b>		
CS Structure		2 Coat System (Orgnic Zinc Primer [2.5-4miles] / Aliphatic Polyurethane [1.2-2.5miles]) Galvanized
Stair/Ladder & Handrail		Galvanized
All Bolted Structural Steel incl. grating for platforms, etc		N/A
SS Accessories		2 Coat System
CS Piping Insulated		
CS Piping Un-Insulated		2 Coat System
SS Piping Insulated		N/A
SS Piping Un-Insulated		N/A

CHENIERE LNG PROJECT, SABINE PASS  
LNG STORAGE TANKS TECHNICAL DATA SHEET

<i>APPURTENANCES</i>	
<i>Anchorage (Inner Tank)</i>	None
<i>Anchorage (Outer Tank)</i>	
Type	ANCHOR STRAP
Required Numbers	Preliminary 180 PC
<i>LNG Spill Recovery</i>	
Tray Around Pump Column	SS TP304
Cover for Flange	SS TP304
<i>Ladder</i>	
Inner Tank ladder w/Cage	1set (Inner tank Ladder)
Annular Space for Ladders	None
Dome Space for Ladders	1set
<i>Walkway</i>	
Roof Peripheral Walkway	1 set (with handrail)
Roof Radial Walkway	1 set (with handrail)
<i>Platform</i>	
Top Platform	1 set
Pipe Support Tower	1 set
Instrument Platform	1 set
VRV &PRV Platform	1 set
<i>Stairway</i>	1 set
<i>Pipe Supports &amp; Brackets</i>	1 set
<i>Inst Cable Support &amp; Tray</i>	1 set
<i>Elect Cable Support &amp; Tray</i>	1 set
<i>Settlement Measuring Clips</i>	1 set



CHENIERE LNG PROJECT, SABINE PASS  
LNG STORAGE TANKS TECHNICAL DATA SHEET

**APPURTENANCES**

**PRV**

Design Code	API RP520 & API 620
Type	Pilot Operated (Alumna)
Numbers	3+1(Spare)
Size (Inlet/Outlet)	12"
Set Pressure	17.237 Kpa
	2.5 psig

**VRV**

Design Code	API RP520 & API 620
Type	Weight loaded
Numbers	3+1(Spare)
Size (Inlet/Outlet)	8"
Set Pressure	-206.8 Pa
	-0.03 psig

**LNG Intank Pumps**

Column Design pressure	1.9 Mpa	275 psig
Number of Pump Columns	4	
Number of Pumps to be installed	3	
Piping	For 3 Pump Columns	
Number of Foot Valves	For 4 Pump Columns	
Pumps and Foot Valves	Excluded (Supplied by Others)	

**Dry Powder System -(Excluded (Supplied by others))**

Platform Space for Skid	None
CO <sub>2</sub> /Dry Powder Skid	None
Skid-PRV Tail Pipe Piping	For PRV tail piping (HOLD)

**Snuffing system**

snuffing system for PRV	1 set
Infrared Camera System	None

**INSTRUMENTS**

**Tank level Gage**

Type	Servo Type / Radar Type
Required Number	1 / 1
Stillwell	Yes
Transmitter	Yes
Local Indicator	Yes

**Tank Level gage (LTD)**

Type	Servo Type LTD System
Required Number	1
Stillwell	Yes
Transmitter	Yes
Ave Temp Transmitter	Yes
Density Reading	Yes

**Tank HH Level Sensor**

Type	Servo
Required Number	1

**Data Acquisition System**

Pressure Transmitters	Yes
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Pressure Gauges	8
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Pressure Switch	15
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Tank Temp Profile for DAS	0
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Flow Element	2
--------------	---

Flow Transmitter	3
------------------	---

Flow Element (w/Transmitter)	3
------------------------------	---

Flow Indicator	1
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7
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CHENIERE LNG PROJECT, SABINE PASS  
LNG STORAGE TANKS TECHNICAL DATA SHEET

**Control valve**

*\*Other control valve provided by CONTRACTOR*

IPC: N2 Injection (2" Carbon)  
IPC: Discretionary Vent N2 (3" Carbon)  
IPC: Air (3" Carbon)

**Temperature Sensor (RTD)**

**Temperature Sensor (Thc "K")**

**Temperature Transmitter**

**Temperature Indicator**

**Cooldown Temp Sensor**

Inner Tank Bottom

Inner Tank Shell

Suspended Deck

11 Sensors (Double Elements)

13 Sensors (Double Elements)

5 Sensors (Double Elements)

**Leak Detection**

Number of Sensors

Type

Installation on outer tank bottom

Wiring To Junction Box

Junction Box at B L

7

Duplex RTD

Yes

Yes

2

CHENIERE LNG PROJECT, SABINE PASS  
LNG STORAGE TANKS TECHNICAL DATA SHEET

**GAS DETECTION**

Gas Detector (Roof)	Excluded (Supplied by Others)
Below Bottom Slab (in Air Gap)	Excluded (Supplied by Others)

**Instrument Installation Only**

Flow Tube	0
Flow Transmitter	0
Control valve	12
PG & PI for Piping	0
Thermo well and RTD	0
Pressure Gauges	0

**HOISTS**

**Hoist for Pump Loading**

Number/Type	1 SET, JIB CRANE HOIST
Power Source	Pneumatic
Capacity	5.6 ton
Power Supply Requirement	80psi(normal), 100psi(max) at tie-in point of lifting device (HOLD)
Junction Box None for Power Supply	None

**Hoist for PRV**

Number/Type	1 SET, Chain Block
Power Source	Manual
Capacity	0.2 ton (HOLD)

**Lighting**

**Tank Roof Platform / Stairway & Emergency Ladder- A LINE**

Number of Lighting Fixture	Approx. 41
Type	High Pressure Sodium Type
Illumination Level	Minimum 5fc
Power Supply Requirement	Approx. 15 kVA

**Tank Roof Platform / Stairway & Emergency Ladder- B LINE**

Number of Lighting Fixture	Approx. 42
Type	High Pressure Sodium Type
Illumination Level	Minimum 5fc
Power Supply Requirement	Approx. 15 kVA

**Air-Craft Beaconing Light**

Number of Lighting Fixture	10
Type	Dual 700 Watt Red Flashing ×1 / Dual 300 Watt Steady × 9
Power Supply Requirement	Approx. 15 kVA

**Lightning Conductor**

<b>Receptacle</b>	None
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<b>Distribution Board</b>	7
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<b>Junction Box</b>	4
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<b>Grounding</b>	Later
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Between Inner & Outer Tanks	4 sets
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Outer Tank	10 sets
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Grounding Grid	Excluded (Supplied by others)
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**Other**

**Hydrotesting Water**

Quantity of Test water	104205 m3 / TANK	655,431 barrel / TANK
Quantity of Test water required	104205 m3 / TANK / 655,431 barrel / TANK	

**Pre-Commissioning - (Excluded (Supplied by others))**

Dew Point Requirement	(-)20°C	(-)4°F
Oxygen Content Requirement	Later	
N <sub>2</sub> requirement for Drying	Later	
N <sub>2</sub> requirement for Purging	Later	

EXHIBIT ‘K’

FOR  
LNG TANKS  
[Design Basis]

July 19

004	19 Jul 2006	Revision reflecting contract basis
003	1 Nov.2005	Revision reflecting clarification meeting on Oct.31
002	28Oct2005	Revised by classification of ‘Rely upon’ and ‘Design Reqst’
001	26Oct.2005	Geotechnical data is revised to ‘Rely-on’ information
000		ISSUED FOR PROPOSAL

<u>NO</u>	<u>DATE</u>	<u>REASON FOR REVISION</u>	<u>BY</u>	<u>CK'D</u>	<u>APPR</u>	<u>APPR</u>
		Design Basis				REV.
SP LNG PHASE 2 EXPANSION TERMINAL PROJECT						004

## DESIGN BASIS

The Design Basis consists of the following items, plus the bases of design, technical parameters and Specifications contained in the other provisions of Exhibit D and Exhibit E, including the documents and Drawings listed in Exhibit F,G,H,I,J, which are incorporated by reference into the Design Basis.

Owner shall be responsible for the information designated below as “Rely Upon”. Subject to the requirements of GC-5.1 and SC-3 of the Agreement, items listed as “Rely Upon” are considered to be part of the Design Basis. Tank Contractor is entitled to rely upon the specific information provided or to be provided by Owner for the items designated as “Rely Upon”; however, Tank Contractor shall be obligated to take such information into account and to perform all relevant portions of the Work in accordance with such information.

Items designated below as “Design Reqt” are design requirements which define some of the specifications, philosophies, selections, results, data or other information that have been developed prior to the Contract Date. These design requirements must be complied with by Tank Contractor unless modified by Owner during the Project.

Item	Design Basis	Remarks	DESIGN REQT	RELY UPON
<b>1 General</b>				
1.1 Cool Down assumptions	Assume Cool Down with LNG (not LN2).	The agreement to this assumption will be provided by Owner.	Yes	
<b>2 Site Description</b>				
2.1 Wetlands	Delineation of wetlands is in the Army Corps of Engineers Permit	Owner’s responsibility		Yes
2.2 Land Available		Owner’s responsibility		Yes
2.3 Permanent Easement Availability		Owner’s responsibility		Yes
2.4 Final Site Elevation (MSL)	Inner tank bottom levels are identical between S101-105 tanks. Top level of each tank foundation is EL +118.5 feet.	Owner’s responsibility		Yes
2.5 Process and pipeways	See attached drawing DA-P0500 included in Exhibit J.	Terminated at bottom of pipe tower		Yes
2.6 Tanks	On elevated piles, 3 ft air gap preferred.	Owner requires a minimum of 3 feet of air gap between the bottom of the pile cap and ground. Tank Contractor will confirm if the 3 ft minimum air gap will be adequate for design.	Yes	



Item		Design Basis	Remarks	DESIGN REQT	RELY UPON
2.7	Geotechnical Conditions	See the Geotechnical Reports referenced in Exhibit F	Tanks and pipe support structures to be on pile foundations Tank Contractor will do the foundation design based on owner supplied Geotechnical report.		Yes
2.8	Differential settlement	The engineering design shall be such that a six (6) inch differential settlement between pile-supported structures and adjacent non-piled facilities or fill/improved areas which may occur from Substantial Completion through the expected lifetime of the Facility will not cause any Defects with normal monitoring and maintenance provided by Owner.	Differential settlement in the piles supporting the pile cap for the tank and support tower will be catered to in the design of the pile cap. Differential settlement between the pile cap and the adjacent pipe rack structure is to be incorporated in supporting structures for piping, pipe racks etc.		Yes
<b>3 Seismic Conditions</b>					
3.1	Basic Seismic Design to be per ASCE 7 and NFPA 59A.	See ABS Consulting report in Exhibit F for more details	Tank will be designed to NFPA 59A requirements. The pipe support tower will be designed to ASCE7 requirements. Owner is responsible for the site specific seismic hazard report that forms the basis for the design.		Yes
3.2	Operating Basis Earthquake (OBE)	OBE=0.03g, OBE spectral acceleration at 1-second period is 0.03 g			Yes
3.3	Safe Shutdown Earthquake (SSE)	SSE=0.05g, SSE spectral acceleration at 1-second period is 0.06 g			Yes
<b>4 Climatic Data</b>					
4.1	Design Ambient Temperature	Minimum: 14 deg F; Maximum 90 deg F	No heat tracing required for freeze protection		Yes
4.2	Maximum Design Barometric Pressure Change	0.295 inches of Hg/hr (10 mbar/hr)			Yes
4.3	Maximum Design Wind Speed	150 mph (67.1 m/s) sustained.	Special wind speed requirement per CFR, Title 49, Part 193. Wind design to otherwise conform to ASCE-7, exposure C, I=1.0.		Yes
4.4	Maximum Rainfall in 24 hours , 100 year storm event	11 inches per hour for 100 year storm	49 CFR requires water removal rate at 25% of the collection rate from a 10 year frequency and one hour duration rainfall.		Yes
4.5	Maximum Design Snowfall	Zero			Yes
<b>5 LNG Storage Tanks</b>					
5.1	Type of Tank	Single containment on piles, no bottom or side penetration	Design to be based on the specification of the requirement by Owner		Yes
5.2	Number of Tanks	Two			Yes



	Item	Design Basis	Remarks	DESIGN REQT	RELY UPON
5.3	Capacity (Gross)	169,600 m3	Tank Contractor to confirm.	Yes	
5.4	Capacity (Working)	160,000 m3	Tank design will meet the requirement set by the owner.	Yes	
	Tank OD	269 feet (82 meters)	Tank Contractor to confirm.	Yes	
5.5	Minimum Heel	1 meter	Minimum level sets NPSH available for in-tank pump. In-tank pumps to be supplied by the owner.		Yes
5.6	Maximum Design LNG Density	30.5 lb/ft3 (489 kg/m3)			Yes
2	Minimum Design LNG Temperature	-265 F (-165 C)	Dependent on LNG composition. Set temperature based on Hysys simulation.		Yes
5.8	Maximum Internal Design Pressure	2.5 psig (172 mbarg)			Yes
5.9	Support Piles	Piles required. See the Geotechnical Reports listed in Exhibit F.	Tank Contractor will design the foundation based on data in Geotechnical reports. Geotechnical reports are provided by the owner.	Yes	
5.10	Maximum Tank Heat In-Leak Rate at 90 F (32.2 C)	Boil off Gas (BOG)=0.05 % per day	Calculation of the boil off gas will be provided by Tank Contractor. The requirement is set by the Owner.		Yes
5.11	Instrumentation Philosophy	Fully automatic as shown on P&IDs in Exhibit F	Instrument and control philosophy needs to be determined and written. Expect controls to be PLC based.		Yes
5.12	Tank spacing	Per NFPA-59A	Owner responsibility		Yes
5.13	Number of in-Tank pumps	3 pumps with one spare well in each Tank. Spare well is not piped or wired up. Foot valve is to be provided with each spare well.	By Owner		Yes
5.14.	Level control and safeguarding:	Level indicators provided to control limits of LNG level will be per NFPA 59A requirements.	Two automatic, continuous Tank level gauges to be provided. In addition there is a high level gauge installed. Need density profile same as Phase 1. Redundant temperature(leak detection) indicators in annular space.	Yes	
			This information will be provided by Owner.		
5.15	Tank Startup	Facility may be in operation prior to Tank cool down	This means some work will be performed under hot-work permits. Positive Tank isolation is required.		Yes
5.16	Tank Deluge system	Two monitors are located on top the platform	This information will be provided by Owner. Tank Contractor will design two monitors.	Yes	
<b>6</b>	<b>Vaporization Process &amp; Regasification Process Pumps</b>				
6.1	LNG Primary In-Tank Pumps Type	In-tank vertical turbine type with inducer	Inducer plus one or two stages ok. By Owner		Yes

	Item	Design Basis	Remarks	DESIGN REQT	RELY UPON
6.2	Number of In-Tank Sendout Pumps/Tank	Three per Tank	By Owner		Yes
6.3	In-Tank Sendout Pump Capacity	Normal 3,912 gpm @ 100 psig, rated at 4,304 gpm	Confirm flow rates. By Owner Pump well will be designed based on this condition by Tank Contractor.		Yes
<b>7</b>	<b>Utilities</b>				
7.1	Power available(for E&I design)	110/220V, 60 Hz, 3 phase,3 wire to Pipetower			Yes
7.2	Water requirements Hydrotest	Need about 100,000 m3 (26.4 million gallons) water to fill a Tank over a 2 week duration.	Owner's responsibility. Water quality shall meet API 620 Appendix Q.8.3. requirements and less than 250 ppm total suspended solids.		Yes
<b>8</b>	<b>Miscellaneous</b>				
8.1	Cryogenic Valve and Pipe Requirements				
8.1.1	Valves	All cryogenic valves will have a minimum extension of 18 inches as measured from top of flange.	Tank Contractor will design to the 18 inch extension based on the information provided by Owner.	Yes	
8.1.2	Control valves		Owner to provide		Yes
8.2	Piping:				
8.2.1	P&ID		Owner to provide		Yes
<b>9</b>	<b>Guarantees and Warranties</b>				
9.1	Tank Heat Leak	Boil off Gas (BOG)= 0.05% per day based on pure methane using approved calculation methodology.	The BOG quantity requirement is from Owner. Tank Contractor will design based on the specified BOG rate.	Yes	



**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**  
**ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG TANK CONTRACT**  
**EXHIBIT L**  
**SCOPE OF MANAGEMENT CONTRACTOR'S AUTHORITY**  
**AS AUTHORIZED REPRESENTATIVE**

**1. Introduction**

1.1 Management Contractor shall have the authority to act on behalf of PURCHASER as set forth below.

**2. Scheduling and Other Construction Planning**

2.1 Management Contractor is authorized to request and receive from TANK CONTRACTOR information necessary to organize the Phase 2 Project, including the creation of Phase 2 Project master schedules.

2.2 Management Contractor is authorized to request and receive from TANK CONTRACTOR information necessary to prepare PURCHASER cost reports, progress reports, construction forecasts, estimates of monthly cash requirements, estimates for contract progress payments, and such other reports and data as may be required by PURCHASER.

**3. Performance, Quality and Progress of TANK CONTRACTOR's Work**

3.1 Management Contractor is authorized to request and review Permits and other licenses required by the Tank Contract to ensure TANK CONTRACTOR is in compliance with its contractual requirements under the Tank Contract.

3.2 Management Contractor is authorized to review with TANK CONTRACTOR and to comment on various procedures related to the performance of the Work, such as welding procedures, testing procedures, calibration procedures, or other procedures necessary for the performance of the Work and for which input from PURCHASER is required by the Tank Contract or otherwise is desirable.

3.3 Management Contractor is authorized to monitor the progress of TANK CONTRACTOR's Work and observe all such Work at the Phase 2 Site. If requested by PURCHASER, Management Contractor is authorized to observe the performance of such Work at other locations.

3.4 Management Contractor is authorized to inspect the Work to the same extent PURCHASER is permitted to do so under the Tank Contract.

3.5 Management Contractor is authorized to issue to TANK CONTRACTOR notices of non-conforming Work in accordance with the Tank Contract; if necessary and appropriate, Management Contractor may recommend to PURCHASER further action with respect to TANK CONTRACTOR, including termination for default if TANK CONTRACTOR fails to correct such non-conforming Work in accordance with the terms of the Tank Contract. Management Contractor is not authorized to issue such termination for default on behalf of PURCHASER.

Tank Contract  
Exhibit L

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3.6 Management Contractor is authorized to assist PURCHASER with the enforcement of warranties from TANK CONTRACTOR and its Subcontractors and Sub-subcontractors on the Phase 2 Project.

3.7 On behalf of and as requested by PURCHASER, Management Contractor also is authorized to perform expediting, quality surveillance and traffic services with respect to materials, equipment and supplies procured through TANK CONTRACTOR. As used herein, quality surveillance services consists of the review, observation and evaluation of processes, procurement, manufacturing operations, quality control systems and programs to monitor TANK CONTRACTOR compliance with contractual quality requirements. This does not include directing TANK CONTRACTOR's Subcontractors.

3.8 Management Contractor is authorized to review and determine quantities of materials and equipment installed by TANK CONTRACTOR and to assess the percentage completion of the Work.

3.9 Management Contractor is authorized to monitor TANK CONTRACTOR's compliance, or lack thereof, with the Tank Contract Schedule. In the event TANK CONTRACTOR is not in compliance with the Tank Contract Schedule, Management Contractor may issue a notice of non-compliance to TANK CONTRACTOR and direct TANK CONTRACTOR to comply with its schedule obligations, to the extent PURCHASER is permitted to do so under the Tank Contract. Management Contractor is not authorized to order acceleration of the Work if such acceleration would warrant a Change Order under the Tank Contract.

#### **4. Review of Items and Requests for Information Submitted by TANK CONTRACTOR**

4.1 Management Contractor is authorized to receive and review items submitted by TANK CONTRACTOR, including drawings, shop drawings, and samples. Management Contractor is authorized to request additional information regarding such items, reject such items and accept such items to the same extent PURCHASER is permitted to do so under the Tank Contract.

4.2 Management Contractor is authorized to receive and review requests for information ("RFIs") submitted by TANK CONTRACTOR and to respond to such RFIs on behalf of PURCHASER.

#### **5. Safety and Security**

5.1 Management Contractor is authorized to monitor and direct compliance with the Phase 2 Project security obligations of TANK CONTRACTOR to the same extent PURCHASER is permitted to do so under the Tank Contract.

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5.2 Management Contractor is authorized to monitor and direct compliance with Phase 2 Project safety obligations of TANK CONTRACTOR. This includes the authority to issue instructions related to safety and to stop unsafe Work by TANK CONTRACTOR to the same extent PURCHASER is permitted to do so under the Tank Contract. Management Contractor may recommend to PURCHASER the removal from the Phase 2 Project of personnel not complying with the safety requirements of the Phase 2 Project, but Management Contractor may not direct that such personnel be removed.

5.3 Management Contractor is authorized to instruct TANK CONTRACTOR, its Subcontractors and Subsubcontractors to stop Work in any area where Hazardous Materials are discovered. Management Contractor is also authorized to instruct TANK CONTRACTOR and its Subcontractors and Sub-subcontractors to leave and not re-enter any portion of the Phase 2 Site where Hazardous Materials are discovered.

5.4 Management Contractor is authorized to work with the safety representatives of TANK CONTRACTOR for implementation by TANK CONTRACTOR of specific programs designed to enhance safety awareness and promote accident and fire prevention.

## **6. Insurance**

6.1 Management Contractor is authorized to request and receive certificates of insurance, policies of insurance and any other information related to insurance from TANK CONTRACTOR to the same extent PURCHASER is permitted to do so under the Tank Contract.

6.2 Management Contractor is authorized to request information and documents necessary to ensure that TANK CONTRACTOR is in compliance with the insurance obligations of the Tank Contract.

6.3 Management Contractor is authorized to investigate claims made by any TANK CONTRACTOR on any insurance policy provided by Management Contractor or PURCHASER with respect to the Phase 2 Project.

## **7. Payment of TANK CONTRACTOR**

7.1 Management Contractor is authorized to request and receive estimates and forecasts of the monthly cash flow requirements of TANK CONTRACTOR as necessary to fund the bank account designated for the payment of contractor invoices on the Phase 2 Project ("Company Contractor Payment Account"). TANK CONTRACTOR shall comply with such requests.

7.2 Management Contractor is authorized to receive and review Invoices from TANK CONTRACTOR and to provide its review and recommendations regarding such Invoices to PURCHASER.

7.3 Management Contractor is authorized to request and receive lien and claim waivers required by the Tank Contract.

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7.4 Management Contractor is authorized to request and receive other documents and documentation required by the Tank Contract to be included in Invoices or delivered with Invoices.

7.5 Management Contractor is authorized to make payment on Invoices from the Company Contractor Payment Account.

7.6 Management Contractor shall not be authorized to withhold any amounts invoiced by TANK CONTRACTOR, except with the express written consent of or direction from PURCHASER.

#### **8. Completion of TANK CONTRACTOR Work**

8.1 Management Contractor is authorized to work with TANK CONTRACTOR to develop punchlists for the Work as required by the Tank Contract.

8.2 Management Contractor is authorized to identify and direct the correction of the Work (including Corrective Work) of TANK CONTRACTOR that is not in compliance with the requirements of the Tank Contract to the same extent PURCHASER is permitted to do so under the Tank Contract.

8.3 Management Contractor is authorized to receive certificates or notices of completion from TANK CONTRACTOR, to review and evaluate any such certificates and notices, and to make recommendations to PURCHASER regarding whether TANK CONTRACTOR's Work is complete with respect to such notice or certificate. Management Contractor is not authorized to approve any such certificates or notices without the express written consent of or direction from PURCHASER.

#### **9. TANK CONTRACTOR Claims and Requests for Change Orders**

9.1 Management Contractor is authorized to receive and review claims, by requests for Change Orders or otherwise, for additional time and additional compensation from TANK CONTRACTOR with respect to the performance of the Work under the Tank Contract. With respect to such claims, Management Contractor is authorized to request additional information and to seek clarification of such claims, and if Management Contractor believes that the claim is not justified under the Tank Contract, Management Contractor is authorized to convey that belief to TANK CONTRACTOR. Management Contractor is authorized to make recommendations to PURCHASER about accepting or rejecting such claims and regarding whether Management Contractor believes a Change Order is justified under the Tank Contract.

9.2 If instructed by PURCHASER to do so, Management Contractor is authorized to negotiate Change Orders with TANK CONTRACTOR regarding claims. TANK CONTRACTOR retains the right to finalize negotiations of any such Change Order directly with PURCHASER. Management Contractor is not authorized to execute Change Orders on behalf of PURCHASER.

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**10. Site Access, Coordination, Lay Down and Storage**

10.1 Management Contractor is authorized to coordinate access of TANK CONTRACTOR and its Subcontractors and Subsubcontractors to and from the Phase 2 Site. As part of this coordination, Management Contractor is authorized to schedule and coordinate access to the construction dock, plant, roads, and other delivery routes for all TANK CONTRACTOR and its Subcontractors and Subsubcontractors.

10.2 Management Contractor is authorized to coordinate and assign available space on the Phase 2 Site for lay down of materials, storage of materials and equipment and location of facilities, provided that Management Contractor first consults with PURCHASER regarding such lay down, storage and location. If TANK CONTRACTOR believes that a change to the agreed assignment forms the basis for a Change Order, TANK CONTRACTOR shall seek relief pursuant to the terms of General Condition 32, titled CHANGES.

**11. Permits and Other Governmental Requirements**

11.1 Management Contractor is authorized to assist PURCHASER in acquiring Permits required for the Phase 2 Project.

11.2 Management Contractor is authorized to request and receive information from TANK CONTRACTOR necessary for PURCHASER to comply with Applicable Law and any requirements of any Governmental Instrumentality with respect to sales and use tax or other Taxes on the Phase 2 Project. Management Contractor does not have audit rights over the TANK CONTRACTOR, and any information requested shall be solely related to the Tank Contract.

**12. Notice of Exercise of Authority Herein**

12.1 Management Contractor shall provide PURCHASER with a copy of any written instruction, directive, notice, or other document issued hereunder.

**13. PURCHASER Right to Request Withdrawal and Supersede**

13.1 If Management Contractor exercises its authority herein by issuing to TANK CONTRACTOR a directive, instruction, or order; or by granting any permission; or otherwise; PURCHASER may request that Management Contractor withdraw or retract such directive, instruction, order, permission, or other exercise of authority, and Management Contractor shall do so within two (2) Days of any such request by PURCHASER.

13.2 PURCHASER has the right to supersede any exercise by Management Contractor of Management Contractor's authority granted herein.

**14. No Agency**

14.1 Notwithstanding any provision express or implied to the contrary, Management Contractor is not PURCHASER's agent and is not authorized to enter into contracts or agreements on behalf of PURCHASER, execute Change Orders or other contractual modifications on behalf of PURCHASER, or otherwise contractually bind PURCHASER.

**SABINE PASS LNG PROJECT (PHASE 2)**  
**ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG UNIT RATE**  
**SOIL IMPROVEMENT CONTRACT**

**Soil Contract Form of Agreement**

Soil Contractor:	Remedial Construction Services, L.P.	Purchaser:	Sabine Pass LNG, L.P.
		Address:	717 Texas Avenue Suite 3100 Houston, TX 77002
Address:	9720 Derrington Houston, TX 77064		
Contact:	Steven R. Birdwell	Contact:	Ed Lehotsky
Telephone:	281-955-2442	Telephone:	713-265-0206
Facsimile:	281-890-5172	Facsimile:	713-659-5459

This "Soil Contract" is dated effective as of the 21st day of July, 2006 (the "Effective Date"), between Sabine Pass LNG, L.P. ("PURCHASER") and Remedial Construction Services, L.P, a Texas limited partnership ("SOIL CONTRACTOR," and together with PURCHASER, each a "Party," and together the "Parties") who hereby agree that all Work specified below shall be performed by SOIL CONTRACTOR in accordance with all the provisions of this Soil Contract, consisting of the following "Soil Contract Documents":

This Soil Contract Form of Agreement  
Exhibit "A" – General Conditions  
Exhibit "B" – Special Conditions  
Exhibit "C" – Quantities, Pricing and Data  
Exhibit "D" – Scope of Work  
Exhibit "E" – Scope of Management Contractor's Authority as Authorized Representative  
Exhibit "F" – Form of Consent and Agreement

1. **WORK TO BE PERFORMED:** Except as specified elsewhere in the Soil Contract, SOIL CONTRACTOR shall furnish all plant; labor; materials; tools; supplies; equipment; transportation; supervision; technical; professional and other services; and shall perform all operations necessary and required to satisfactorily:

**Engineer, Procure and Construct the soil remediation and improvement on the Phase 2 Site, in accordance with the Soil Contract Documents.**

- 
2. SCHEDULE: The Work shall be performed in accordance with the dates set forth in Special Condition 8, SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
  3. COMPENSATION: As full consideration for the satisfactory performance by SOIL CONTRACTOR of this Soil Contract, PURCHASER shall pay to SOIL CONTRACTOR the Soil Contract Price in accordance with the amounts set forth in Exhibit "C" and the payment provisions of this Soil Contract.

This Soil Contract embodies the entire agreement between PURCHASER and SOIL CONTRACTOR with respect to the subject matter herein and supersedes all other writings. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding not set forth herein.

PURCHASER:

Sabine Pass LNG, L.P.

Authorized

Signature: /s/ Stanley C. Horton

Print Name: Stanley C. Horton

Print Title: Chief Executive Officer

SOIL CONTRACTOR:

Remedial Construction Services, L.P

Authorized

Signature: /s/ Steven R. Birdwell

Print Name: Steven R. Birdwell

Print Title: Manager of General Partner

**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**  
**ENGINEERING, PROCURE AND CONSTRUCT (EPC) UNIT RATE**  
**SOIL IMPROVEMENT CONTRACT**

**EXHIBIT “A” GENERAL CONDITIONS**

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APPENDICES

A-1	GLOSSARY SMALL, MINORITY AND WOMEN OWED BUSINESS ENTERPRISES (S/M/WBE)	
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**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**

**ENGINEER, PROCURE AND CONSTRUCT UNIT RATE  
SOIL IMPROVEMENT CONTRACT**

**EXHIBIT "A" – GENERAL CONDITIONS**

**GC-1 INDEPENDENT CONTRACTOR**

- 1.1 SOIL CONTRACTOR represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Work under this Soil Contract. SOIL CONTRACTOR shall act as an independent contractor and not as the agent of PURCHASER in performing this Soil Contract, maintaining complete control over its employees and all of its associates, Subcontractors and Sub-subcontractors. Nothing contained in this Soil Contract or any Subcontract or Sub-subcontract awarded by SOIL CONTRACTOR shall create any contractual relationship between any Subcontractor or Sub-subcontractor and PURCHASER. SOIL CONTRACTOR shall perform the Work using Good Engineering and Construction Practices and subject to compliance with the Soil Contract.

**GC-2 AUTHORIZED REPRESENTATIVES**

- 2.1 Before starting any Work, SOIL CONTRACTOR shall designate in writing an authorized representative acceptable to PURCHASER to represent and act for SOIL CONTRACTOR and shall specify any and all limitations of such representative's authority. PURCHASER agrees that SOIL CONTRACTOR's Key Personnel are acceptable to PURCHASER. Such representative shall be present or be represented at the Phase 2 Site at all times when Work is in progress and shall be empowered to receive communications in accordance with this Soil Contract on behalf of SOIL CONTRACTOR. During periods when the Work is suspended, arrangements shall be made for an authorized representative acceptable to PURCHASER for any emergency Work that may be required. All communications given to the authorized representative by PURCHASER in accordance with this Soil Contract shall be binding upon SOIL CONTRACTOR. PURCHASER shall designate in writing one or more representatives to represent and act for PURCHASER and to receive communications from SOIL CONTRACTOR. Notification of changes of authorized representatives for either PURCHASER or SOIL CONTRACTOR shall be provided in advance, in writing, to the other Party.

**GC-3 NOTICES**

- 3.1 Any notices required hereunder shall be in writing and may be served either personally on the authorized representative of the receiving Party at the Phase 2 Site, by facsimile, by courier or express delivery, or by certified mail to the facsimile number or address of that Party as shown on the face of the Soil Contract Form of Agreement or at such facsimile number or address as may have been directed by written notice.

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**GC-4 SOIL CONTRACT INTERPRETATION**

- 4.1 All questions concerning interpretation or clarification of this Soil Contract or applicable standards and codes, including the discovery of conflicts, discrepancies, errors or omissions, or the acceptable performance thereof by SOIL CONTRACTOR, shall be immediately submitted in writing to PURCHASER for resolution. Subject to the provisions of General Condition 32, titled CHANGES, all determinations, instructions, and clarifications of PURCHASER shall be final and conclusive unless determined to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. At all times SOIL CONTRACTOR shall proceed with the Work in accordance with the determinations, instructions, and clarifications of PURCHASER. SOIL CONTRACTOR shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so.

**GC-5 ORDER OF PRECEDENCE**

- 5.1 All Soil Contract Documents and subsequently issued Change Orders and amendments are essential parts of this Soil Contract and a requirement occurring in one is binding as though occurring in all. In resolving conflicts, discrepancies, or errors the following order of precedence shall be used:
- (1) Soil Contract Form of Agreement
  - (2) Exhibit "B" – Special Conditions
  - (3) Exhibit "A" – General Conditions
  - (4) Exhibit "E" – Scope of Management Contractor's Authority as Authorized Representative
  - (5) Exhibit "C" – Quantities, Pricing and Data
  - (6) Exhibit "D" – Scope of Work

**GC-6 STANDARDS AND CODES**

- 6.1 Wherever references are made in this Soil Contract to standards or codes in accordance with which the Work under this Soil Contract is to be performed, the edition or revision of the standards or codes current on the Effective Date of this Soil Contract shall apply unless otherwise expressly stated. In case of conflict between any referenced standards and codes and any Soil Contract Documents, General Condition 4, titled SOIL CONTRACT INTERPRETATION shall apply.
- 6.2 SOIL CONTRACTOR shall, in preparation of its detail design, select the more stringent of applicable local, national and international standards or codes of practice, when not otherwise specified in the Soil Contract Documents or writing by PURCHASER.

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**GC-7 LAWS AND REGULATIONS**

- 7.1 All Applicable Laws in effect at the time the Work under this Soil Contract is performed shall apply to SOIL CONTRACTOR and its employees and representatives.
- 7.2 If SOIL CONTRACTOR discovers any discrepancy or inconsistency between this Soil Contract and any Applicable Law, SOIL CONTRACTOR shall immediately notify PURCHASER in writing.
- 7.3 If during the term of this Soil Contract there is any Change in Law (but excluding changes to Tax laws where such Taxes are based upon SOIL CONTRACTOR's inventory, income, profits/losses or cost of finance) not known or foreseeable at the Effective Date which become effective and which affect the cost or time of performance of this Soil Contract, SOIL CONTRACTOR shall immediately notify PURCHASER and submit detailed documentation of such effect in terms of both time and cost of performing the Soil Contract. If the Work is affected by such changes and PURCHASER concurs with their effect, an equitable adjustment will be made pursuant to General Condition 32, titled CHANGES.

**GC-8 PERMITS**

- 8.1 PURCHASER shall provide the Permits as set forth and limited to those Permits identified in Special Condition 6, titled PURCHASER PERMITS.
- 8.2 SOIL CONTRACTOR shall procure and pay for all SOIL CONTRACTOR Permits, and shall furnish any documentation, bonds, security or deposits required to permit performance of the Work.
- 8.3 SOIL CONTRACTOR shall provide PURCHASER with copies of such SOIL CONTRACTOR Permits as soon as reasonably practicable after they are obtained. SOIL CONTRACTOR shall provide information, assistance and documentation to PURCHASER as reasonably requested in connection with the PURCHASER Permits; provided that such information, assistance and documentation shall not include SOIL CONTRACTOR's provision of information, testimony, documents or data by SOIL CONTRACTOR employees under oath (unless specifically authorized by SOIL CONTRACTOR) and activities outside the field of SOIL CONTRACTOR's expertise, training or experience of personnel assigned to the performance of the Work under this Soil Contract (except to the extent provided for by Change Order issued pursuant to General Condition 32, titled CHANGES ).

**GC-9 TAXES**

- 9.1 Subject to the Louisiana Sales and Use Tax Allowance in SC-43.5, the Soil Contract Price includes all Taxes and SOIL CONTRACTOR shall pay all Taxes, levies, duties and assessments of every nature due in connection with the Work under this Soil Contract and shall make any and all payroll deductions and withholdings required by Applicable Law, and hereby indemnifies and holds harmless PURCHASER Group from any liability on account of any and all such Taxes, levies, duties, assessments and deductions.

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**GC-10 LABOR, PERSONNEL AND WORK RULES****10.1 Design Activities**

- (1) PURCHASER'S written approval of all SOIL CONTRACTOR personnel assigned to perform the Work shall be a condition precedent to payment of their costs. SOIL CONTRACTOR shall submit resumes for each individual setting forth educational and professional qualifications, experience, tasks to be performed, position, and compensation. SOIL CONTRACTOR shall verify all academic degrees and professional credentials and certifies the accuracy of any SOIL CONTRACTOR submitted qualifications.
- (2) PURCHASER shall review and approve or reject assignments for cause within ten (10) Days. Approval of assignments shall not relieve SOIL CONTRACTOR of the full responsibilities of employer and shall create no direct relationship between the individual and PURCHASER.
- (3) SOIL CONTRACTOR shall assign only competent and qualified personnel and shall at all times be solely responsible for their work quality. PURCHASER may request the removal of individual employees for cause at any time and SOIL CONTRACTOR agrees to comply and to promptly provide acceptable replacement personnel.

**10.2 Procurement and Construction Activities**

- (1) SOIL CONTRACTOR shall employ only competent and skilled personnel to perform the Work and shall remove from the Phase 2 Site any SOIL CONTRACTOR personnel determined to be unfit or to be acting in violation of any provision of this Soil Contract. SOIL CONTRACTOR is responsible for maintaining labor relations in such manner that there is harmony among workers and shall comply with and enforce Phase 1 and Phase 2 Project and Phase 2 Site procedures, regulations, work rules and work hours established by PURCHASER.
- (2) PURCHASER may at its sole discretion deny access to the Phase 2 Site to any individual by written notice to SOIL CONTRACTOR. In the event an employee is excluded from the Phase 2 Site, SOIL CONTRACTOR shall promptly replace such individual with another who is fully competent and skilled to perform the Work.
- (3) SOIL CONTRACTOR is responsible for maintaining labor relations in such manner that, so far as reasonably practicable, there is harmony among workers. SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors shall conduct their labor relations in accordance with the recognized prevailing local area practices. SOIL CONTRACTOR shall inform PURCHASER promptly of any labor dispute, anticipated labor dispute, request or demand by a labor

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organization, its representatives or members which may reasonably be expected to affect the Work. SOIL CONTRACTOR further agrees to inform PURCHASER, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations.

- (4) Notwithstanding the foregoing, PURCHASER shall not have any liability and SOIL CONTRACTOR agrees to release, indemnify, defend and hold harmless the PURCHASER Group from and against any and all claims, causes of action, damages, losses, cost and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) and liabilities, of whatsoever kind or nature, which may directly or indirectly arise or result from SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor choosing to terminate the employment of any such employee (including any Key Person) or remove such employee from the Project who fails to meet the foregoing requirements following a request by PURCHASER to have such employee removed from the Work. Any such employee shall be replaced at the cost and expense of SOIL CONTRACTOR or the relevant Subcontractor or Sub-subcontractor.

#### **GC-11 COMMERCIAL ACTIVITIES**

- 11.1 Neither SOIL CONTRACTOR nor its employees shall establish any commercial activity or issue concessions or permits of any kind to any Person for establishing commercial activities on the Phase 2 Site or any other lands owned or controlled by PURCHASER.

#### **GC-12 PUBLICITY AND ADVERTISING**

- 12.1 Neither SOIL CONTRACTOR nor its Subcontractors or Sub-subcontractors shall make any announcement, take any photographs of any part of the Phase 2 Facility for publicity or advertising purposes, issue a press release, advertisement, publicity material, financial document or similar matter or participate in a media interview that mentions or refers to the Work or any part of the Phase 2 Facility or release any information concerning this Soil Contract, or the Phase 1 or Phase 2 Project, or any part thereof to any member of the public, press, business entity, or any official body unless prior written consent is obtained from PURCHASER, which shall not be unreasonably withheld.

#### **GC-13 SAFETY AND HEALTH**

- 13.1 SOIL CONTRACTOR shall be solely responsible for conducting operations under this Soil Contract to avoid risk of harm to the health and safety of persons and property and for inspecting and monitoring all its equipment, materials and work practices to ensure compliance with its obligations under this Soil Contract.
- 13.2 SOIL CONTRACTOR shall be solely responsible for developing and implementing a Safety and Health Plan (S&H Plan) pursuant to the terms of this Soil Contract. SOIL CONTRACTOR's S&H Plan shall as a minimum conform and comply with:
- (1) Applicable Law governing safety and health in the workplace;

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- (2) SOIL CONTRACTOR's specific Scope of Work under this Soil Contract;
  - (3) PURCHASER's safety and health standards as set forth in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS, as well as any S&H Plan written by or on behalf of PURCHASER, including revisions thereto; and
  - (4) Operating Plant Procedures developed for the Facility by PURCHASER or Bechtel and delivered to SOIL CONTRACTOR after the Effective Date.
- 13.3 Within thirty (30) Days after the Effective Date and in any event prior to commencing Work at the Phase 2 Site, SOIL CONTRACTOR shall submit its S&H Plan to PURCHASER for review and approval.
- 13.4 To the extent allowed by Applicable Law, SOIL CONTRACTOR shall assume all responsibility and liability with respect to all matters regarding the safety and health of its employees and the employees of Subcontractors and Sub-subcontractors with respect to the risks under this Soil Contract.
- 13.5 SOIL CONTRACTOR's failure to correct any unsafe condition or unsafe act by SOIL CONTRACTOR or any Subcontractors or Sub-subcontractors may, at the sole discretion of PURCHASER, be grounds for an order by PURCHASER to stop the affected Work or operations until the unsafe act or condition is corrected to PURCHASER's satisfaction at SOIL CONTRACTOR's expense.
- 13.6 If the unsafe act or condition continues despite notice and reasonable opportunity to affect a resolution, PURCHASER may, at its sole discretion, correct the unsafe act or condition at SOIL CONTRACTOR's expense pursuant to General Condition 38, titled BACKCHARGES or terminate this Soil Contract pursuant to General Condition 45, titled TERMINATION FOR DEFAULT.
- 13.7 SOIL CONTRACTOR shall assign to the Phase 2 Site one (or more as necessary for compliance with the terms of this clause) safety representative(s) acceptable to PURCHASER. Such safety representative(s) shall be physically located at the Phase 2 Site, shall have authority for correcting unsafe acts or conditions by SOIL CONTRACTOR or any Subcontractors and Sub-subcontractors, and shall participate in periodic safety meetings with PURCHASER. SOIL CONTRACTOR shall instruct its personnel on the requirements of SOIL CONTRACTOR's S&H Plan and coordinate with other contractors and subcontractors at the Phase 1 and Phase 2 Sites on safety matters required for the Work.
- 13.8 Unless otherwise specified by PURCHASER, SOIL CONTRACTOR shall furnish all safety equipment required for the Work, require the use of such safety equipment, and provide safety instructions to its employees. All safety equipment must be manufactured to a standard acceptable to PURCHASER as set forth in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.

- 13.9 SOIL CONTRACTOR shall maintain accident and injury records as required by Applicable Law. Such records will be made available to PURCHASER upon request. SOIL CONTRACTOR shall furnish PURCHASER with a weekly and monthly summary of accidents, injuries, and labor hours lost to work-related injuries of its employees and employees of all Subcontractors and Sub-subcontractors in a form and format designated by PURCHASER.
- 13.10 SOIL CONTRACTOR shall immediately report to PURCHASER any death, injury or damage to property incurred or caused by SOIL CONTRACTOR's employees and employees of any Subcontractors or Sub-subcontractors. In addition, in the event of any safety incident involving a significant non-scheduled event such as fires, explosions or mechanical failures, or in the event of any safety incident involving non-scheduled LNG or Natural Gas releases or unusual over-pressurizations of which SOIL CONTRACTOR is aware, SOIL CONTRACTOR shall provide a written report to PURCHASER within eight (8) hours of the occurrence of such incident; provided, however, notification shall be provided to PURCHASER immediately if the incident is of significant magnitude to threaten public or employee safety or interrupt the Work.

#### **GC-14 ENVIRONMENTAL REQUIREMENTS**

- 14.1 Throughout performance of the Work, SOIL CONTRACTOR shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any spread or release of Hazardous Materials.
- 14.2 SOIL CONTRACTOR shall:
- (1) Comply with Applicable Law governing environmental requirements and conduct the Work based on the requirements of this Soil Contract, including compliance with Permit requirements and Project plans and approvals.
  - (2) Provide all documentation required by all levels of Governmental Instrumentality or PURCHASER concerning environmental requirements.
  - (3) Provide and maintain effective planning and field control measures for the following activities:
    - Wastewater discharges to land, surface water, or groundwater;
    - Extraction/supply of water;
    - Storm water management;
    - Spill prevention and response;
    - Erosion and sedimentation control;
    - Air emissions and dust control;
    - Noise control;



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Waste and hazardous waste management; and

Work area restoration, including re-vegetation.

These measures shall include obtaining certifications; conducting requisite analyses and monitoring of such activities as required by the Soil Contract Documents, Permit conditions or other Applicable Law; utilizing appropriate equipment; and proceeding in accordance with Permit requirements.

- (4) Be responsible for developing and maintaining a written Environmental Compliance Plan in accordance with SOIL CONTRACTOR's established practices, including but not limited to compliance with Applicable Law and the requirements of the Project Construction Environmental Control Plan (CECP). SOIL CONTRACTOR shall have sole responsibility for implementing and enforcing its Environmental Compliance Plan.
- (5) Submit its written Environmental Compliance Plan to PURCHASER for review thirty (30) Days after the Effective Date and in any event prior to commencing Work at the Phase 2 Site. PURCHASER's review of SOIL CONTRACTOR's plan shall not relieve SOIL CONTRACTOR of its obligation under this Soil Contract or as imposed by Applicable Law and SOIL CONTRACTOR shall be solely responsible for the adequacy of its Environmental Compliance Plan.
- (6) Comply with all access restrictions, including prohibitions on access to certain areas on or adjacent to the Phase 2 Site and require its personnel and those of its Subcontractors and Sub-subcontractors to comply with all signage and flagging related to such restricted areas. Restricted areas may include, but are not limited to: designated wetlands; environmental mitigation study areas; cultural/historical/archaeological sites; and designated fish, wildlife, or vegetative habitat.
- (7) Require that its personnel do not hunt, fish, feed, capture, extract, or otherwise disturb aquatic, animal, or vegetative species within the Phase 2 Project boundary or while performing any tasks in performance of the Work.
- (8) Not proceed with any renovation or demolition Work until asbestos surveys and notifications have been completed to the appropriate regulatory agencies, in accordance with the division of responsibility outlined in the Project's CECP and PURCHASER specifically authorizes that Work to proceed. Should asbestos containing materials be uncovered during SOIL CONTRACTOR's Work, the provisions of subclause (9) below shall apply.
- (9) Immediately stop Work in any area where contaminated soil indicators (such as odor or appearance), unknown containers, piping, underground storage tanks, or similar structures are discovered; or any other materials, which are reasonably suspected to be Hazardous Materials. SOIL CONTRACTOR shall then immediately notify PURCHASER and the stop work area shall be determined by

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PURCHASER and confirmed in writing. Activity in the stop work area shall only resume upon PURCHASER's written approval.

- (10) Immediately stop Work in any area where cultural resources or artifacts with archaeological or historical value are discovered, and immediately notify PURCHASER. The stopped Work shall proceed in the manner set forth in subclause (9) above. No artifacts, items, or materials shall be disturbed or taken from the area of discovery. Neither SOIL CONTRACTOR nor any Subcontractor or Sub-subcontractor shall have property rights to such artifacts, items, or materials, which shall be secured and guarded until turned over to PURCHASER or the appropriate Governmental Instrumentalities. SOIL CONTRACTOR shall also require that its personnel and those of its Subcontractors and Sub-subcontractors comply with this provision and respect all historic and archaeological sites in the area.
  - (11) Manage, store, and dispose of all Hazardous Materials generated by SOIL CONTRACTOR, Subcontractors and Sub-subcontractors during performance of the Work in accordance with Applicable Law, including the Resource and Conservation Recovery Act (RCRA) regulations and state special and Hazardous Material programs) and as outlined in the Project CECF. This includes, but is not limited to: waste minimization; Hazardous Material generator registration; Hazardous Materials inventory with Material Safety Data Sheets (MSDS) for each Hazardous Material on site; employee training; Hazardous Material spill management and reporting; proper storage of Hazardous Materials; equipment decontamination; onsite and offsite transport of Hazardous Materials; and selection and use of offsite final disposal facilities.
- 14.3 SOIL CONTRACTOR shall deliver to PURCHASER (i) notice of any pending or threatened material environmental claim with respect to the Phase 2 Project, and (ii) promptly upon their becoming available, copies of written communications with any Governmental Instrumentality relating to any such material environmental claim.
- 14.4 SOIL CONTRACTOR's obligations under General Condition 39, titled INDEMNITY, apply to any liability arising in connection with or incidental to SOIL CONTRACTOR's performance or failure to perform as provided in this General Condition 14, titled Environmental Requirements.

#### **GC-15 SITE CONDITIONS AND NATURAL RESOURCES**

- 15.1 SOIL CONTRACTOR shall have the sole responsibility for satisfying itself concerning the nature and location of the Work and the general and local conditions, including but not limited to the following:
- (1) Transportation, access, disposal, handling and storage of materials;
  - (2) Availability and quality of labor, water, electric power and road conditions;
  - (3) Climatic conditions, tides, and seasons;

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- (4) River hydrology and river stages;
  - (5) Physical conditions at the Phase 2 Site and the Phase 2 Project area as a whole;
  - (6) Topography and ground surface conditions; and
  - (7) Equipment and facilities needed preliminary to and during the performance of the Work.
- 15.2 The failure of SOIL CONTRACTOR to acquaint itself with any applicable conditions will not relieve SOIL CONTRACTOR of the responsibility for properly estimating the difficulties, time or cost of successfully performing SOIL CONTRACTOR's obligations under this Soil Contract.

**GC-16 DIFFERING SITE CONDITIONS**

- 16.1 Any investigations of subsurface conditions made by PURCHASER in areas where Work will be performed are for the purpose of study and design. If the records of such investigation are included in the Soil Contract Documents, the interpretation of such records shall be the sole responsibility of SOIL CONTRACTOR. PURCHASER does not assume any responsibility whatsoever in respect to the sufficiency or accuracy of such investigations, the records thereof, or of the interpretations set forth and there is no warranty or guarantee, either express or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout such areas, or any part thereof, or that unforeseen developments may not occur, or that materials other than or in proportions different from those indicated may not be encountered.
- 16.2 SOIL CONTRACTOR shall confirm and supplement such studies or conduct the appropriate investigations of subsurface conditions to establish a mutually agreed baseline prior to SOIL CONTRACTOR's further engineering and design development.
- 16.3 Subsequently, SOIL CONTRACTOR shall immediately notify PURCHASER in writing before proceeding with any Work that SOIL CONTRACTOR believes constitutes a differing site condition with respect to:
- (1) Subsurface or latent physical conditions at the Phase 2 Site differing materially from those indicated in the mutually approved investigations of subsurface conditions; or
  - (2) Previously unknown physical conditions at the Phase 2 Site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Soil Contract.
- 16.4 PURCHASER will then investigate such condition and make a written determination. If PURCHASER determines that such condition does constitute a differing site condition, SOIL CONTRACTOR may then, pursuant to General Condition 32, titled CHANGES,

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submit a written proposal for an equitable adjustment setting forth the impact of such differing site condition. Failure of SOIL CONTRACTOR to give the required immediate notice of the differing site condition shall be grounds for rejection of the claim to the extent PURCHASER is prejudiced by such delay.

#### **GC-17 TITLE TO MATERIALS FOUND**

- 17.1 The title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by PURCHASER and its Affiliates. SOIL CONTRACTOR may, at the sole discretion of PURCHASER, be permitted, without charge, to use in the Work any such materials that meet the requirements of this Soil Contract.

#### **GC-18 SURVEY CONTROL POINTS AND LAYOUTS**

- 18.1 PURCHASER will establish survey control points as shown on the drawings.
- 18.2 SOIL CONTRACTOR shall complete the layout of all Work and shall be responsible for execution of the Work in accordance with the locations, lines, and grades specified or shown on the drawings, subject to such modifications as PURCHASER may require as Work progresses.
- 18.3 If SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor moves or destroys or renders inaccurate any survey control point, such control point shall be replaced by PURCHASER at SOIL CONTRACTOR's expense. No separate payment will be made for survey Work performed by SOIL CONTRACTOR.

#### **GC-19 SOIL CONTRACTOR'S WORK AREA**

- 19.1 PURCHASER will assign SOIL CONTRACTOR's work areas on the Phase 2 Site. SOIL CONTRACTOR shall confine its operations to the areas so assigned. Should SOIL CONTRACTOR find it necessary or advantageous to use any additional area off-site area the Phase 2 Site for any purpose whatsoever, SOIL CONTRACTOR shall, at its expense, provide and make its own arrangements for the use of such additional off-site areas. SOIL CONTRACTOR shall not perform any Work at the Phase 1 Site except as permitted by PURCHASER in writing.

#### **GC-20 CLEANING UP**

- 20.1 SOIL CONTRACTOR shall, at all times, keep its work areas in a neat, clean and safe condition. Upon completion of any portion of the Work, SOIL CONTRACTOR and any Subcontractors and Sub-subcontractors shall promptly remove from the work area all its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of the Work.

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- 20.2 Upon completion of the Work and prior to final payment, SOIL CONTRACTOR shall at its expense satisfactorily dispose of all rubbish, remove all plant, buildings, equipment and materials belonging to SOIL CONTRACTOR, Subcontractors and Sub-subcontractors and return to PURCHASER's warehouse or Phase 2 Site storage area all salvageable PURCHASER-supplied materials. SOIL CONTRACTOR shall leave the premises in a neat, clean and safe condition.
- 20.3 In event of SOIL CONTRACTOR's failure to comply with the foregoing requirements, PURCHASER may accomplish them at SOIL CONTRACTOR's expense.

**GC-21 COOPERATION WITH OTHERS AND NO INTERFERENCE WITH PHASE 1 FACILITY**

- 21.1 PURCHASER, Management Contractor, other contractors and subcontractors may be working at the Phase 2 Site during the performance of this Soil Contract, and SOIL CONTRACTOR's Work or use of certain facilities may be interfered with as a result of such concurrent activities. PURCHASER reserves the right to require SOIL CONTRACTOR to schedule the order of performance of the Work in such a manner as will minimize interference with work of any of the parties involved.
- 21.2 Notwithstanding anything to the contrary in the Soil Contract, it is the Parties' intent that the performance of the Work and SOIL CONTRACTOR's other obligations under this Soil Contract shall not, in any way, negatively impact the cost or schedule for development of the Phase 1 Facility or those portions of the Phase 2 Facility not within the scope of this Soil Contract or otherwise interfere with the operation of the Phase 1 Facility, and SOIL CONTRACTOR shall perform the Work and SOIL CONTRACTOR's other obligations under this Soil Contract so that it does not negatively impact the cost or schedule for development of the Phase 1 Facility or those portions of the Phase 2 Facility not within the scope of this Soil Contract or otherwise interfere with the operation of the Phase 1 Facility. During the performance of the Work or SOIL CONTRACTOR's other obligations under this Soil Contract, if an unforeseen situation arises that could potentially interfere with the operation of the Phase 1 Facility, SOIL CONTRACTOR shall provide to PURCHASER, as soon as possible but no later than seven (7) Days prior to the time that SOIL CONTRACTOR intends to perform such Work, a written plan listing the potentially interfering Work and proposing in detail how such Work will be performed to avoid interference with the operation of the Phase 1 Facility. Prior to performing such Work, PURCHASER and SOIL CONTRACTOR shall mutually agree upon a plan, including an applicable schedule for performance, for SOIL CONTRACTOR to execute such Work. If the unforeseen situation was not caused by SOIL CONTRACTOR and is not an item for which SOIL CONTRACTOR assumed the risk or bears responsibility, and if compliance by SOIL CONTRACTOR with this GC-21.2 causes a change in the Work affecting the cost or the Soil Contract Schedule, SOIL CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

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**GC-22 RESPONSIBILITY FOR WORK, SECURITY AND PROPERTY****22.1 Work in Progress, Equipment and Material.**

SOIL CONTRACTOR shall be responsible for and shall bear any and all risk of loss or damage to Work (including equipment and materials) pursuant to General Condition 34, titled TITLE AND RISK OF LOSS.

**22.2 Delivery, Unloading and Storage.**

SOIL CONTRACTOR's responsibility for materials and plant equipment required for the performance of this Soil Contract shall include:

- (1) Procurement, importation and transportation to and from the Phase 2 Site unless otherwise specified;
- (2) Receiving and unloading;
- (3) Storing in a secure place and in a manner subject to PURCHASER's review. Outside storage of materials and equipment subject to degradation by the elements shall be in weathertight enclosures provided by SOIL CONTRACTOR;
- (4) Delivering from storage to construction site all materials and plant equipment as required; and
- (5) Maintaining complete and accurate records for PURCHASER's inspection of all materials and plant equipment received, stored and issued for use in the performance of the Soil Contract.

**22.3 Security**

- (1) SOIL CONTRACTOR shall at all times conduct all operations under this Soil Contract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or any other means to any equipment, materials, Work or other property at the Phase 2 Site. SOIL CONTRACTOR shall continuously inspect all equipment, materials and Work to discover and determine any conditions, which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions.
- (2) SOIL CONTRACTOR shall comply with PURCHASER's and Management Contractor's security requirements for the Phase 1 and Phase 2 Sites. SOIL CONTRACTOR shall cooperate with PURCHASER and Management Contractor on all security matters and shall promptly comply with any Phase 1 and Phase 2 Project security arrangements established by PURCHASER or Management Contractor, including any Operating Plant Procedures. Such compliance with these security requirements shall not relieve SOIL CONTRACTOR of its responsibility for maintaining proper security for the above noted items, nor shall it be construed as limiting in any manner SOIL CONTRACTOR's obligation with

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respect to Applicable Law and to undertake reasonable action to establish and maintain secure conditions at the Phase 2 Site.

- 22.4 Property. SOIL CONTRACTOR shall plan and conduct its operations so as not to:
- (1) Enter upon lands in their natural state unless authorized by PURCHASER;
  - (2) Damage, close or obstruct any utility installation, highway, road or other property until Permits and PURCHASER's permission therefor have been obtained;
  - (3) Disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch or structure unless otherwise specifically authorized by this Soil Contract; or
  - (4) Damage or destroy cultivated and planted areas, and vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises which, as determined by PURCHASER, do not interfere with the performance of this Soil Contract. This includes damage arising from performance of Work through operation of equipment or stockpiling of materials.
- 22.5 SOIL CONTRACTOR shall not be entitled to any extension of time or compensation on account of SOIL CONTRACTOR's failure to protect all facilities, equipment, materials and other property as described herein. All costs in connection with any repairs or restoration necessary or required by reason of unauthorized obstruction, damage or use shall be borne by SOIL CONTRACTOR.

**GC-23 SOIL CONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES**

- 23.1 SOIL CONTRACTOR shall provide and use for the Work only such construction plant and equipment as are capable of producing the quality and quantity of work and materials required by this Soil Contract and within the time or times specified in the Soil Contract Milestone Date(s) and Soil Contract Schedule.
- 23.2 Before proceeding with the Work, SOIL CONTRACTOR shall furnish PURCHASER with information and drawings relative to such equipment, plant and facilities as PURCHASER may request. Upon written order of PURCHASER, SOIL CONTRACTOR shall discontinue operation of unsatisfactory plant, equipment or facilities and shall either modify the unsatisfactory items or remove such items from the Phase 2 Site.
- 23.3 SOIL CONTRACTOR shall, at the time any equipment is moved onto the Phase 2 Site, present to PURCHASER an itemized list of all equipment and tools, including but not limited to power tools, welding machines, pumps and compressors. Said list must include description and quantity, and serial number where applicable. It is recommended that SOIL CONTRACTOR identify its equipment by color, decal and etching. Prior to removal of any or all equipment, SOIL CONTRACTOR shall clear such removal through PURCHASER. SOIL CONTRACTOR shall not remove

#### **GC-24 ILLUMINATION**

- 24.1 When any Work is performed at night or where daylight is obscured, SOIL CONTRACTOR shall, at its expense, provide artificial light sufficient to permit Work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of Work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in a safe manner and meet all applicable codes and standards.

#### **GC-25 USE OF COMPLETED PORTIONS OF WORK**

- 25.1 Whenever, as determined by PURCHASER, any portion of the Work performed by SOIL CONTRACTOR is suitable for use, PURCHASER may, upon written notice, occupy and use such portion. Use shall not constitute acceptance, relieve SOIL CONTRACTOR of its responsibilities, or act as a waiver by PURCHASER of any terms of this Soil Contract.
- 25.2 SOIL CONTRACTOR shall not be liable for normal wear and tear or for repair of damage caused by any misuse during such occupancy or use by PURCHASER. If such use increases the time of performance of remaining portions of the Work, SOIL CONTRACTOR shall be entitled to seek an equitable adjustment in the Soil Contract Milestone Date(s) in accordance with General Condition 32, titled CHANGES.
- 25.3 If, as a result of SOIL CONTRACTOR's failure to comply with the provisions of this Soil Contract, such use proves to be unsatisfactory to PURCHASER, then PURCHASER shall have the right to continue such use until such portion of the Work can, without injury to PURCHASER, be taken out of service for correction of defects, errors, omissions or replacement of unsatisfactory materials or equipment as necessary for such portion of the Work to comply with the Soil Contract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed twelve (12) months unless otherwise mutually agreed in writing between the Parties.
- 25.4 SOIL CONTRACTOR shall not use any permanently installed equipment unless PURCHASER approves such use in writing. When such use is approved, SOIL CONTRACTOR shall at SOIL CONTRACTOR's expense properly use and maintain and, upon completion of such use, recondition such equipment as required to meet specifications.

#### **GC-26 USE OF PURCHASER'S CONSTRUCTION EQUIPMENT OR FACILITIES**

- 26.1 Where SOIL CONTRACTOR requests PURCHASER and PURCHASER agrees to make available to SOIL CONTRACTOR certain equipment or facilities belonging to PURCHASER for the performance of Work under the Soil Contract, the following shall apply:
- (1) Equipment or facilities will be charged to SOIL CONTRACTOR at agreed rental rates;



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- (2) PURCHASER will furnish a copy of the equipment maintenance and inspection record and SOIL CONTRACTOR shall maintain these records during the rental period;
  - (3) SOIL CONTRACTOR shall assure itself of the condition of such equipment and assume all risks and responsibilities during its use;
  - (4) CONTRACTOR shall, as part of its obligation under General Condition 39, titled INDEMNITY, release, defend, indemnify and hold harmless PURCHASER GROUP from all claims, demands and liabilities arising from the use of such equipment.
  - (5) PURCHASER and SOIL CONTRACTOR shall jointly inspect such equipment before its use and upon its return. The cost of all necessary repairs or replacement for damage other than normal wear shall be at SOIL CONTRACTOR's expense; and
  - (6) If such equipment is furnished with an operator, the services of such operator will be performed under the complete direction and control of SOIL CONTRACTOR and such operator shall be considered SOIL CONTRACTOR's employee for all purposes other than the payment of wages, Workers' Compensation Insurance or other benefits.

#### **GC-27 FIRST AID FACILITIES**

- 27.1 Where PURCHASER has first-aid facilities at the Phase 2 Site, it may, at its option, make available its first-aid facilities for the treatment of employees of SOIL CONTRACTOR who may be injured or become ill while engaged in the performance of the Work under this Soil Contract.
- 27.2 If first-aid facilities and/or services are made available to SOIL CONTRACTOR's employees then, in consideration for the use of such facilities and the receipt of such services, SOIL CONTRACTOR hereby agrees:
  - (1) To include as part of its obligation under General Condition 39, titled INDEMNITY, the obligation to release, defend, indemnify and hold harmless PURCHASER GROUP from all claims, demands and liabilities arising from the use of such services or facilities; and
  - (2) In the event any of SOIL CONTRACTOR's employees require off-site medical services, including transportation thereto, to promptly pay for such services directly to the providers thereof.

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**GC-28 INSPECTION, QUALITY SURVEILLANCE, REJECTION OF MATERIALS AND WORKMANSHIP**

- 28.1 All material and equipment furnished and Work performed shall be properly inspected by SOIL CONTRACTOR at its expense, and shall at all times be subject to quality surveillance and quality audit by PURCHASER, Management Contractor, or their authorized representatives who, upon reasonable notice, shall be afforded full and free access to the shops, factories or other places of business of SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors for such quality surveillance or audit. SOIL CONTRACTOR shall provide safe and adequate facilities, drawings, documents and samples as requested, and shall provide assistance and cooperation including stoppage of Work to perform such examination as may be necessary to determine compliance with the requirements of this Soil Contract. Any Work covered prior to any quality surveillance or test by PURCHASER or Management Contractor shall be uncovered and replaced at the expense of SOIL CONTRACTOR if such covering interferes with or obstructs such inspection or test. Failure of PURCHASER or Management Contractor to make such quality surveillance or to discover Defective design, equipment, materials or workmanship shall not relieve SOIL CONTRACTOR of its obligations under this Soil Contract nor prejudice the rights of PURCHASER thereafter to reject or require the correction of Defective Work in accordance with the provisions of this Soil Contract.
- 28.2 If any Work is determined by PURCHASER to be Defective or not in conformance with this Soil Contract the provisions of General Condition 37, titled WARRANTY / DEFECT CORRECTION PERIOD shall apply.

**GC-29 TESTING**

- 29.1 Unless otherwise provided in the Soil Contract, testing of equipment, materials or Work shall be performed by SOIL CONTRACTOR at its expense and in accordance with the requirements of this Soil Contract. Should PURCHASER direct tests in addition to those required by this Soil Contract, SOIL CONTRACTOR will be given reasonable notice to permit such testing. Such additional tests will be at PURCHASER's expense.
- 29.2 SOIL CONTRACTOR shall furnish samples as requested and shall provide reasonable assistance and cooperation necessary to permit tests to be performed on materials or Work in place including reasonable stoppage of Work during testing.

**GC-30 EXPEDITING**

- 30.1 The equipment and materials furnished and Work performed under this Soil Contract shall be subject to expediting by PURCHASER or its representatives who shall be afforded full and free access to the shops, factories and other places of business of SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors for expediting purposes. As required by PURCHASER, SOIL CONTRACTOR shall provide detailed schedules and progress reports for use in expediting and shall cooperate with PURCHASER in expediting activities.

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**GC-31 FORCE MAJEURE**

- 31.1 If SOIL CONTRACTOR's performance of this Soil Contract is prevented or delayed by Force Majeure, SOIL CONTRACTOR shall, within twenty-four (24) hours of the commencement of any such delay, give to PURCHASER written notice thereof and within seven (7) Days of commencement of the delay, a written description of the anticipated impact of the delay on performance of the Work. Delays attributable to and within the control of SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor shall be deemed delays within the control of SOIL CONTRACTOR. Within seven (7) Days after the termination of any Force Majeure event, SOIL CONTRACTOR shall file a written notice with PURCHASER specifying the actual duration of the delay. Failure to give any of the above notices shall be sufficient ground for denial of an extension of time. PURCHASER will determine the duration of the delay and will extend the time of performance of this Soil Contract by modifying the Soil Contract Milestone Dates in accordance with the terms of this Soil Contract.
- 31.2 SOIL CONTRACTOR shall demonstrate to PURCHASER its entitlement to such relief under this GC-31 by providing to PURCHASER an updated Soil Contract Schedule using Primavera Project Planner (P3) in its native electronic format with actual durations entered for all activities on the critical path and re-forecasted clearly to indicate SOIL CONTRACTOR's entitlement to a time extension under this GC-31. Once provided, SOIL CONTRACTOR shall be entitled to an extension to the applicable Soil Contract Milestone Date(s) for delay, if and to the extent such delay or prevention causes a delay of any Work that is on the critical path of the Soil Contract Schedule, provided that SOIL CONTRACTOR has complied with the notice, Change Order and mitigation requirements.
- 31.3 Such extension of time to the Soil Contract Milestone Dates shall be the sole remedy for the occurrence of such delay for a continuous period of less than thirty (30) Days.
- 31.4 SOIL CONTRACTOR may be entitled to reimbursement of certain delay-related costs for any delay that meets the requirements of GC 31.1 and GC 31.2, if such delay occurs for a continuous period of at least thirty (30) Days following the applicable Soil Contract Milestone Date. In the event of such a continuous delay of at least thirty (30) Days, SOIL CONTRACTOR shall be entitled to reimbursement only for the standby time for SOIL CONTRACTOR's employees and construction equipment and other standby costs which are incurred by SOIL CONTRACTOR for the period beyond the initial thirty (30) Day period and which are caused by such excusable delay, up to a maximum aggregate of forty (40) Days of standby time. Such reimbursement for standby costs shall be without any percentage fee or other markup for profit, overhead or otherwise.
- 31.5 SOIL CONTRACTOR shall not be entitled to any adjustment to any of the Soil Contract Milestone Dates or adjustment to the Soil Contract Price, or to reimbursement of any costs for any portion of a delay, to the extent SOIL CONTRACTOR could have taken, but failed to take, reasonable actions to mitigate such delay.

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**GC-32 CHANGES**

- 32.1 PURCHASER shall be entitled, without notice to the sureties if any, to make any change in the Work within the general scope of this Soil Contract, including but not limited to changes:
- (1) In the drawings, designs or specifications;
  - (2) In the method, manner, or sequence of SOIL CONTRACTOR Work;
  - (3) In PURCHASER-furnished facilities, equipment, materials, services or site(s);
  - (4) Directing acceleration or deceleration in performance of the Work;
  - (5) In the quantities of Work to be performed by SOIL CONTRACTOR; and
  - (6) Modifying the Soil Contract Schedule or the Soil Contract Milestone Dates.
- 32.2 If PURCHASER desires to make any such change, PURCHASER shall issue to SOIL CONTRACTOR a written directive to perform such changed Work, and SOIL CONTRACTOR shall perform such Work at the Unit Prices set forth in this Soil Contract.
- 32.3 If at any time SOIL CONTRACTOR believes that a change in the Work directed by PURCHASER, or any acts or omissions of PURCHASER that constitute a change to the Work, will cause a delay to the critical path of the Work entitling SOIL CONTRACTOR to an extension to the Soil Contract Milestone Date(s), SOIL CONTRACTOR shall within ten (10) Days of discovery of such directive or such act or omission submit to PURCHASER a written notice and a "Change Order Request" explaining in detail the basis for the request and providing the information required by GC-32.9. If PURCHASER agrees with SOIL CONTRACTOR's statement regarding the effects on the Soil Contract Milestone Dates, the Parties shall execute a Change Order incorporating the change to the Scope of Work and the Soil Contract Milestone Date(s), which Change Order shall amend this Soil Contract. If PURCHASER does not agree with SOIL CONTRACTOR's statement regarding the effects of the proposed change on the Soil Contract Milestone Dates, the Parties shall discuss the change and attempt to negotiate an acceptable Change Order. If the Parties cannot agree to a Change Order, or if PURCHASER desires to have the changed Work commence immediately, PURCHASER may issue a unilateral Change Order for the change in the Work, and SOIL CONTRACTOR shall perform the modified Scope of Work. SOIL CONTRACTOR shall perform the Work, as modified by the unilateral Change Order, even if SOIL CONTRACTOR considers the change to be a dispute, pending resolution of the dispute. All Change Orders shall be in writing and signed by PURCHASER and SOIL CONTRACTOR, and all unilateral Change Orders shall be in writing and signed by PURCHASER. Notwithstanding anything to the contrary, SOIL CONTRACTOR shall not be entitled to any adjustment to the Unit Prices for any change requested by PURCHASER, including any increase or decrease in the quantities of Work to be performed by SOIL CONTRACTOR on the Phase 2 Project.

- 32.4 In addition, in the event of an emergency, which PURCHASER determines endangers life or property, PURCHASER may use oral orders to SOIL CONTRACTOR for any Work required by reason of such emergency. SOIL CONTRACTOR shall commence and complete such emergency Work as directed by PURCHASER. The Parties shall memorialize and confirm such orders by written directive, unless SOIL CONTRACTOR believes that a Change Order is justified, in which case SOIL CONTRACTOR shall request a Change Order in accordance with GC-32.3.
- 32.5 In the event of a change in any applicable code or standard which does not constitute a Change in Law, SOIL CONTRACTOR shall provide written notice to PURCHASER regarding such change if SOIL CONTRACTOR contends that such change will delay performance of the Work entitling SOIL CONTRACTOR to a Change Order. Upon receipt of such notice from SOIL CONTRACTOR and in the event PURCHASER, at its sole option, elects for SOIL CONTRACTOR to implement such change in applicable code or standard, PURCHASER may agree to a Change Order with SOIL CONTRACTOR in accordance with this General Condition 32, titled CHANGES. In the event PURCHASER does not, at its sole option, elect for SOIL CONTRACTOR to implement such change in applicable code or standard, SOIL CONTRACTOR shall not be required to perform in accordance with such applicable code or standard.
- 32.6 Any delay by SOIL CONTRACTOR in giving notice or presenting a Change Order Request under this General Condition 32, titled CHANGES, shall be grounds for rejection of the claim if and to the extent PURCHASER is prejudiced by such delay. In no case shall a claim by SOIL CONTRACTOR be considered if asserted after final payment under this Soil Contract.
- 32.7 Failure by PURCHASER and SOIL CONTRACTOR to agree on any adjustment shall be a dispute within the meaning of General Condition 33, titled DISPUTES.
- 32.8 SOIL CONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for relief, dispute, claim, appeal, or action arising under the Soil Contract, and comply with any decision of PURCHASER.
- 32.9 If (a) PURCHASER or any Person acting on behalf of or under the control of PURCHASER delay the commencement, prosecution or completion of the Work, and if such delay is not the fault of SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors but is caused by (i) PURCHASER's breach of an express obligation of PURCHASER under this Soil Contract, or (ii) PURCHASER's ordering a change in the scope of the Work for which a Change Order is justified (provided that a Change Order has been issued in accordance with this General Condition 32, titled CHANGES); or (b) a section of this Soil Contract expressly provides that SOIL CONTRACTOR is entitled to seek relief under this General Condition 32, SOIL CONTRACTOR is entitled to relief under General Condition 32 and SOIL CONTRACTOR's compliance with that section causes a delay in the commencement, prosecution or completion of the Work; then SOIL CONTRACTOR shall be entitled to an extension to the Soil Contract Milestone Date(s) to the extent, if any, permitted under GC-32.10, provided that SOIL CONTRACTOR complies with the notice, Change Order Request, and mitigation requirements of this

General Condition 32, titled CHANGES. Such adjustment to the Soil Contract Milestone Date(s) shall be SOIL CONTRACTOR's sole relief in the event of any such delay, and SOIL CONTRACTOR shall not be entitled to any adjustment to the Unit Prices based on any such delay. Any adjustments to the Soil Contract Milestone Date(s) shall be recorded in a Change Order. For any such delay that continues for an uninterrupted period of at least thirty (30) Days following the applicable Soil Contract Milestone Date, SOIL CONTRACTOR shall be entitled to reimbursement only for the standby time for SOIL CONTRACTOR's employees and construction equipment and other standby costs which are incurred by SOIL CONTRACTOR for the period beyond the initial thirty (30) Day period and which are caused by such excusable delay, up to a maximum aggregate of forty (40) Days of standby time. Such reimbursement for standby costs shall be without any percentage fee or other markup for profit, overhead or otherwise. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in GC-32, any delay arising out of such change in the Scope of Work and meeting the requirements of this GC-32.9 shall be included in the Change Order incorporating such change in the Scope of Work.

- 32.10 Time Extension: SOIL CONTRACTOR shall be entitled to a time extension to the applicable Soil Contract Milestone Date(s) for delay that meets the requirements of GC-32.9 if and to the extent (i) it causes a delay in the performance of any Work that is on the critical path of the Soil Contract Schedule and (ii) SOIL CONTRACTOR is unable to proceed with other portions of the Work so as not to cause a delay in the applicable Soil Contract Milestone Date. SOIL CONTRACTOR shall demonstrate to PURCHASER its entitlement to such relief under this GC-32.10 by providing to PURCHASER an updated Soil Contract Schedule using Primavera Project Planner (P3) in its native electronic format with actual durations entered for all activities on the critical path and re-forecasted clearly to indicate SOIL CONTRACTOR's entitlement to a time extension under this GC-32.10.
- 32.11 With respect to GC-32.9 and GC-32.10, in no event shall SOIL CONTRACTOR be entitled to any adjustment to the Soil Contract Milestone Date(s) for that portion of delay to the extent SOIL CONTRACTOR could have taken, but failed to take, reasonable actions to mitigate such delay.

### **GC-33 DISPUTES**

- 33.1 Any claim arising out of or attributable to the interpretation or performance of this Soil Contract, which cannot be resolved by negotiation, shall be considered a dispute within the meaning of this clause.
- 33.2 In the event of a dispute, SOIL CONTRACTOR or PURCHASER shall notify the other Party in writing that a dispute exists and request or provide a final determination by PURCHASER. Any such request by SOIL CONTRACTOR shall be clearly identified by reference to this clause and shall summarize the facts in dispute and SOIL CONTRACTOR's proposal for resolution.

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- 33.3 PURCHASER shall, within thirty (30) Days of any request by SOIL CONTRACTOR, provide a written final determination setting forth the contractual basis for its decision and defining what Soil Contract adjustments it considers equitable. Upon SOIL CONTRACTOR's written acceptance of PURCHASER's determination, the Soil Contract will be modified and the determination implemented accordingly or, failing agreement, PURCHASER may in its sole discretion pay such amounts and/or revise the time for performance of the Work in accordance with PURCHASER's final determination.
- 33.4 If SOIL CONTRACTOR does not accept PURCHASER's final determination, the dispute shall within thirty (30) Days, be referred to senior executives of the Parties who shall have designated authority to settle the dispute. The Parties shall promptly prepare and exchange memoranda stating the issues in dispute and their respective positions, summarizing the negotiations that have taken place and attaching relevant documents.
- 33.5 The senior executives will meet for negotiations at a mutually agreed time and place. If the dispute has not been resolved within thirty (30) Days of the commencement of such negotiations, the Parties agree to arbitrate the dispute in accordance with Special Condition 31, titled ARBITRATION.
- 33.6 SOIL CONTRACTOR hereby agrees to be joined in any arbitration proceeding involving a dispute between PURCHASER and Management Contractor or any other contractor on the Project which relates to or is in connection, in whole or in part, with the Work of SOIL CONTRACTOR.

#### **GC-34 TITLE AND RISK OF LOSS**

- 34.1 Where SOIL CONTRACTOR or any Subcontractors or Sub-subcontractors fabricate or purchase equipment, materials or other tangible items ("Goods") for incorporation into the Work or any of its separate parts, the title of such Goods shall pass to and be vested in PURCHASER when the first of the following events occurs:
- (1) The Goods or part thereof is first identifiable as being appropriated to the Soil Contract,
  - (2) When PURCHASER pays for the Goods or part thereof in accordance with the Soil Contract, or
  - (3) When the Goods or part thereof are dispatched to or from SOIL CONTRACTOR's fabrication yard or to the Phase 2 Site.
- Similarly, title to all other portions of the Work shall pass to and be vested in PURCHASER when PURCHASER pays for such Work or part thereof in accordance with the Soil Contract.
- 34.2 SOIL CONTRACTOR warrants and guarantees that legal title to and ownership of the Goods and all other Work shall be free and clear of any and all liens, claims, security interests or other encumbrances arising out of the Work when title thereto passes to

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PURCHASER, and if any such warranty or guarantee is breached, SOIL CONTRACTOR shall have the liability and obligations set forth in General Condition 39, titled INDEMNITY.

- 34.3 Such transfer of title in the Goods and other Work will be without prejudice of PURCHASER's right to refuse the Goods and other Work to the extent of SOIL CONTRACTOR's negligence in case of non-conformity with the Soil Contract Documents.
- 34.4 Irrespective of transfer of title in the Work (including Goods), SOIL CONTRACTOR shall remain responsible for all Work (including all Goods) located outside of the Phase 2 Site at the time of such damage or loss, regardless of cause, and SOIL CONTRACTOR shall remain responsible for risk of loss or damage to Work (including all Goods) in progress at the Phase 2 Site and all Goods at the Phase 2 Site to the extent of SOIL CONTRACTOR's or any of its Subcontractor's or Sub-subcontractor's negligence until Tank S-105 Substantial Completion; provided, however, notwithstanding anything contrary to the foregoing, SOIL CONTRACTOR shall remain fully responsible and liable to PURCHASER for its warranty and guarantee obligations under the Soil Contract.
- 34.5 CONTRACTOR shall ensure that the above provisions are imposed upon all Subcontractors and Sub-subcontractors and shall execute all documents and take all steps necessary or required by PURCHASER to vest title as PURCHASER may direct.
- 34.6 Title to standard Goods of the type usually bought in bulk such as reinforcement bars, piping materials, non-tagged instruments and instrument installation material, cable and similar items which are not incorporated into the Work shall revert to SOIL CONTRACTOR upon agreement by PURCHASER that such Goods are not required for the Work.

#### **GC-35 QUALITY ASSURANCE PROGRAM**

- 35.1 Within thirty (30) Days after the Effective Date, SOIL CONTRACTOR shall submit a project specific Quality Assurance Plan for approval by PURCHASER.
- 35.2 The Quality Assurance Plan shall address all activities relevant to the Work and shall demonstrate how all Work performed by SOIL CONTRACTOR will conform to the Soil Contract requirements.
- 35.3 The plan shall address the interfaces between PURCHASER, SOIL CONTRACTOR, and other relevant organizational entities. The plan shall include an organization chart showing SOIL CONTRACTOR's corporate and Phase 2 Project organization responsible for managing, performing and verifying the Work. The organization chart shall be supported with a reporting and functional description of SOIL CONTRACTOR's Phase 2 Project organization and identification of the quality related responsibilities of key positions.



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- 35.4 The plan shall be updated as necessary throughout the Soil Contract, to reflect any changes to SOIL CONTRACTOR's documented quality system.
- 35.5 SOIL CONTRACTOR's documented quality system shall provide for the issuance of a "Stop Work" order by SOIL CONTRACTOR or PURCHASER at any time during the Work, when significant adverse quality trends and/or deviations from the approved Quality Assurance Plan are found.
- 35.6 PURCHASER reserves the right to perform quality assurance audits of SOIL CONTRACTOR's approved Quality Assurance Plan, including Subcontractors and Sub-subcontractors, at any stage of the Work.
- 35.7 PURCHASER has basic quality system requirements, which are substantially similar to those for the Phase I Project. As applicable, SOIL CONTRACTOR shall comply with those requirements.

#### **GC-36 RECORDS AND AUDIT**

- 36.1 SOIL CONTRACTOR shall keep full and detailed books, construction logs, records, daily reports, schedules, accounts, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents ("Books and Records") as may be necessary for proper management under this Soil Contract, as required under Applicable Law or this Soil Contract, and in any way relating to this Soil Contract. SOIL CONTRACTOR shall maintain all such Books and Records in accordance with GAAP and shall retain all such Books and Records for a minimum period of three (3) years after Final Completion, or such greater period of time as may be required under Applicable Law.
- 36.2 Upon reasonable notice, PURCHASER shall have the right to audit or have audited, SOIL CONTRACTOR's Books and Records by PURCHASER or PURCHASER's third party auditors but only to the extent necessary to validate payments made to SOIL CONTRACTOR or invoiced by SOIL CONTRACTOR on the basis of time and material rates, unit rates or cost reimbursable basis. However, nothing shall entitle PURCHASER the right to audit the internal pricing or composition of any agreed-upon Unit Prices. When requested by PURCHASER, SOIL CONTRACTOR shall provide PURCHASER and PURCHASER's auditors with reasonable access to all such relevant Books and Records, and SOIL CONTRACTOR's personnel shall cooperate with PURCHASER and such auditors to effectuate the audit or audits hereunder. PURCHASER shall have the right upon consent of SOIL CONTRACTOR (such consent not to be unreasonably withheld or delayed) to copy or have the auditors copy all such Books and Records. SOIL CONTRACTOR shall bear all costs incurred by it in assisting with audits performed. SOIL CONTRACTOR shall include audit provisions identical to this in all Major Subcontracts and Major Sub-subcontracts. No access to Books and Records shall be granted to PURCHASER's auditors until such auditors have signed a confidentiality agreement with SOIL CONTRACTOR in accordance with the standard practice in the auditing industry for audits of this kind.

- 36.3 Within a reasonable period of time following a request by PURCHASER, SOIL CONTRACTOR shall provide PURCHASER and PURCHASER's third party auditors with any information (including Books and Records) regarding quantities and descriptions of any equipment installed on or ordered for the Phase 2 Facility and any other information as PURCHASER or PURCHASER's third party auditors may deem reasonably necessary in connection with the preparation of PURCHASER's Tax returns (including information reasonably required to determine the amount of Qualified Research Expenditures incurred in connection with the Work) or other Tax documentation in connection with the Phase 2 Project; provided, however, if, in connection with such preparation, PURCHASER or PURCHASER's third party auditors request information relating to the actual cost for any item of Work and such item of Work is included in the Soil Contract Price or in any Unit Prices, SOIL CONTRACTOR shall provide such information to PURCHASER or PURCHASER's third party auditors as provided herein. No access to the aforementioned information (including Books and Records) shall be granted to PURCHASER's auditors until such auditors have signed a confidentiality agreement with PURCHASER in accordance with the standard practice in the auditing industry for audits of this kind.
- 36.4 If PURCHASER establishes uniform codes of accounts for the Phase 2 Project, SOIL CONTRACTOR shall use such codes in identifying its records and accounts.
- 36.5 SOIL CONTRACTOR shall not, and shall provide that its Subcontractors and Sub-subcontractors and agents or employees of any of them shall not, without PURCHASER's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee or officer of PURCHASER or Management Contractor or their Affiliates, (ii) favor employees or officers of same with gifts or entertainment of a significant cost or value, or (iii) enter into any business arrangements with employees or officers of same.

#### **GC-37 WARRANTY/DEFECT CORRECTION PERIOD**

- 37.1 SOIL CONTRACTOR warrants that:
- (1) The Work, including all materials and equipment, and each component thereof, shall be new (unless otherwise specified in this Soil Contract) and of good quality;
  - (2) the Work (including all materials and equipment) shall be in accordance with all of the requirements of this Soil Contract, including in accordance with GECP, Applicable Law and applicable codes and standards; and
  - (3) the Work (including all materials and equipment) shall be free from encumbrances to title.
- 37.2 Should the Phase 2 Facility or any part thereof cease operating due solely to corrective actions for Defects, the Defect Correction Period shall be extended by a time equal to the duration of such stoppage.

- 37.3 SOIL CONTRACTOR warrants that the written instructions regarding the use of equipment, including those instructions in operation and maintenance manuals, shall conform to this Soil Contract and GECP as of the time such instructions are prepared. If any non-conformance with SOIL CONTRACTOR's warranties set forth in this GC-37.3 occurs or is discovered at any time prior to or during the Defect Correction Period, SOIL CONTRACTOR shall, at its sole expense, furnish PURCHASER with corrected instructions.
- 37.4 SOIL CONTRACTOR shall, without additional cost to PURCHASER, obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Soil Contract; provided, however, SOIL CONTRACTOR shall not in any way be relieved of its responsibilities and liability to PURCHASER under this Soil Contract, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Soil Contract, as SOIL CONTRACTOR shall be fully responsible and liable to PURCHASER for its warranty and correction of Defective Work obligations and liability under this Soil Contract for all Work. All such warranties shall run to the benefit of SOIL CONTRACTOR but shall permit SOIL CONTRACTOR, prior to assignment to PURCHASER, the right (upon mutual agreement of the Parties), to authorize PURCHASER to deal with Subcontractors or Sub-subcontractors on SOIL CONTRACTOR's behalf. Such warranties, with duly executed instruments assigning the warranties shall be delivered to PURCHASER concurrent with the end of the Defect Correction Period. This shall not in any way be construed to limit SOIL CONTRACTOR's liability under this Soil Contract for the entire Work or its obligation to enforce Subcontractor and Sub-subcontractor warranties.
- 37.5 SOIL CONTRACTOR's warranties do not provide a remedy, and SOIL CONTRACTOR shall have no liability to PURCHASER, for any damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by PURCHASER; (ii) operation, maintenance or use of the Phase 2 Facility, Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by SOIL CONTRACTOR to PURCHASER; (iii) normal wear and tear; (iv) normal corrosion or (v) an event of Force Majeure, to the extent such event of Force Majeure occurs after Tank S-105 Substantial Completion or Substantial Completion BOP, whichever occurs later.
- 37.6 Prior to Tank S-105 Substantial Completion or Substantial Completion BOP, whichever occurs later, all Work shall be subject to inspection by PURCHASER at all reasonable times to determine whether the Work conforms to the requirements of this Soil Contract. Upon PURCHASER giving reasonable prior notice, SOIL CONTRACTOR shall furnish PURCHASER with access to all locations where Work is in progress on the Phase 2 Site and at the offices of SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors. PURCHASER shall be entitled to provide SOIL CONTRACTOR with written notice of any Work that PURCHASER believes does not conform to the requirements of this Soil Contract. If any Work is Defective prior to Tank S-105 Substantial Completion, then SOIL CONTRACTOR shall, at its own expense, correct such Defective Work. If such Defective Work is on the critical path for the Phase 2 Project or otherwise impacts the Phase 1 Facility or any portion of the Phase 2 Project,

SOIL CONTRACTOR shall commence the correction of such Defective Work within a reasonable time but in no event later than the earlier of five (5) Business Days after receipt of notice from PURCHASER or SOIL CONTRACTOR's becoming aware of such Defect, and shall diligently perform and complete the correction of such Defective Work using, as necessary, overtime or shifts and expediting the procurement of materials. If SOIL CONTRACTOR fails to commence, perform or complete the correction of Defective Work as required by this GC-37.6, then PURCHASER, upon providing written notice to SOIL CONTRACTOR, may perform such corrective Work and SOIL CONTRACTOR shall be liable to PURCHASER for the reasonable costs incurred by PURCHASER in connection with performing such corrective Work and shall pay PURCHASER within ten (10) Days after receipt of written notice from PURCHASER an amount equal to such costs (or, at PURCHASER's sole discretion, PURCHASER may withhold or offset amounts owed to SOIL CONTRACTOR). The cost of disassembling, dismantling or making safe finished Work for the purpose of inspection, and reassembling such portions (and any delay associated therewith) shall be borne by (i) SOIL CONTRACTOR, if such Work is found not to conform with the requirements of this Soil Contract and (ii) by PURCHASER, if such Work is found to conform with the requirements of this Soil Contract.

- 37.7 PURCHASER shall provide SOIL CONTRACTOR with a list of witness points no later than sixty (60) Days after the Effective Date and PURCHASER shall notify SOIL CONTRACTOR which of the witness points it wishes its personnel to witness. SOIL CONTRACTOR shall provide PURCHASER with at least fifteen (15) Days prior written notice of the actual scheduled date of each of the tests PURCHASER has indicated it wishes to witness. SOIL CONTRACTOR shall cooperate with PURCHASER if PURCHASER elects to witness any additional tests, and SOIL CONTRACTOR acknowledges that PURCHASER shall have the right to witness all tests being performed in connection with the Work.
- 37.8 PURCHASER's right to conduct inspections shall not obligate PURCHASER to do so. Neither the exercise of PURCHASER of any such right, nor any failure on the part of PURCHASER to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect. In addition, PURCHASER's acceptance of any Work which is later determined to be Defective shall not in any way relieve SOIL CONTRACTOR from its obligations to correct the Work.
- 37.9 If, during the Defect Correction Period, any Work or component thereof is found to be Defective, and PURCHASER provides written notice to SOIL CONTRACTOR within the Defect Correction Period regarding such Defect, SOIL CONTRACTOR shall, at its sole cost and expense, promptly correct (whether by repair, replacement or otherwise) such Defective Work (the correction of the Defective Work is hereby defined as the "Corrective Work"). Any such notice from PURCHASER shall state with reasonable specificity the date of occurrence or observation of the alleged defect and the reasons supporting PURCHASER's belief that SOIL CONTRACTOR is responsible for performing Corrective Work. PURCHASER shall provide SOIL CONTRACTOR with access to the Work sufficient to perform its Corrective Work, so long as such access does not unreasonably interfere with operation of the Facility and subject to any

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reasonable security or safety requirements of PURCHASER and SOIL CONTRACTOR. In the event SOIL CONTRACTOR utilizes spare parts owned by PURCHASER in the course of performing the Corrective Work, SOIL CONTRACTOR shall supply PURCHASER free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by SOIL CONTRACTOR as soon as possible following the utilization of such spare parts.

- 37.10 If SOIL CONTRACTOR fails to commence the Corrective Work within a reasonable period of time not to exceed ten (10) Business Days, or does not complete such Corrective Work promptly (and provided that PURCHASER provides SOIL CONTRACTOR access to the Phase 2 Facility), then PURCHASER, upon providing prior written notice to SOIL CONTRACTOR, may perform such Corrective Work, and SOIL CONTRACTOR shall be liable to PURCHASER for the reasonable costs incurred by PURCHASER in connection with performing such Corrective Work, and shall pay PURCHASER, within ten (10) Days after receipt of written notice from PURCHASER, an amount equal to such costs (or, at PURCHASER's sole discretion, PURCHASER may withhold or offset amounts owed to SOIL CONTRACTOR or collect on the Letter of Credit, if applicable, such costs and expenses); provided, however, if Defective Work discovered during the Defect Correction Period presents an imminent threat to the safety or health of any person and PURCHASER knows of such Defective Work, PURCHASER may perform such Corrective Work in order to correct such Defective Work without giving prior written notice to SOIL CONTRACTOR. In such event, SOIL CONTRACTOR shall be liable to PURCHASER for the reasonable costs incurred by PURCHASER in connection with performing such Corrective Work, and shall pay PURCHASER, after receipt of written notice from PURCHASER, an amount equal to such costs (or, at PURCHASER's sole discretion, PURCHASER may withhold or offset amounts owed to SOIL CONTRACTOR or collect on the Letter of Credit, if applicable, such costs). To the extent any Corrective Work is performed by or on behalf of PURCHASER, SOIL CONTRACTOR's obligations with respect to such Defective Work that is corrected by or on behalf of PURCHASER shall be relieved, with the exception of SOIL CONTRACTOR's obligation to pay PURCHASER the reasonable costs incurred by PURCHASER in connection with performing such Corrective Work.
- 37.11 With respect to any Corrective Work performed by SOIL CONTRACTOR, the Defect Correction Period for such Corrective Work shall be extended for an additional one (1) year from the date of the completion of such Corrective Work; provided, however, in no event shall the Defect Correction Period for any Work (including Corrective Work) extend beyond thirty-six (36) months after SOIL CONTRACTOR's achievement of Tank S-105 Substantial Completion.
- 37.12 All Corrective Work shall be performed subject to the same terms and conditions under this Soil Contract as the original Work is required to be performed. In connection with the Corrective Work, any change to equipment that would alter the requirements of this Soil Contract may be made only with prior written approval of PURCHASER.
- 37.13 SOIL CONTRACTOR shall not be liable to PURCHASER for any Defective Work discovered after the expiration of the Defect Correction Period (as may be extended

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pursuant to GC-37.2 and GC-37.11), except for any liability of SOIL CONTRACTOR pursuant to its indemnification, defense and hold harmless obligations under this Soil Contract, but such indemnification defense or hold harmless obligations are not warranty obligations under this section.

- 37.14 The warranties made in this Soil Contract shall be for the benefit of PURCHASER and its successors and permitted assigns and the respective successors and permitted assigns of any of them, and are fully transferable and assignable.
- 37.15 THE EXPRESS WARRANTIES SET FORTH IN THIS SOIL CONTRACT ARE EXCLUSIVE AND NO OTHER WARRANTIES OR CONDITIONS SHALL APPLY. THE PARTIES HEREBY DISCLAIM, AND PURCHASER HEREBY WAIVES ANY AND ALL WARRANTIES IMPLIED UNDER APPLICABLE LAW (INCLUDING THE GOVERNING LAW) INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.
- 37.16 Notwithstanding any provision of this Soil Contract, SOIL CONTRACTOR shall bear the responsibility of repairs to its Work under this warranty provision.

#### **GC-38 BACKCHARGES**

- 38.1 Upon PURCHASER's written notice to SOIL CONTRACTOR, PURCHASER may, in addition to any other amounts to be retained hereunder, retain from any sums otherwise owing to SOIL CONTRACTOR amounts sufficient to cover the full costs of any of the following:
- (1) SOIL CONTRACTOR's failure to comply with any provision of this Soil Contract or SOIL CONTRACTOR's acts or omissions in the performance of any part of this Soil Contract, including, but not limited to, violation of Applicable Law, including those regarding safety, Hazardous Materials or environmental requirements;
  - (2) Correction of Defective or nonconforming Work by redesign, repair, rework, replacement or other appropriate means when SOIL CONTRACTOR states, or by its actions indicates, that it is unable or unwilling to proceed with corrective action in a reasonable time; and/or
  - (3) PURCHASER agrees to take or perform or, due to SOIL CONTRACTOR's failure, elects to take action or perform Work for SOIL CONTRACTOR, such as cleanup, off-loading or completion of incomplete Work.
- 38.2 PURCHASER may, if no funds are owing to SOIL CONTRACTOR, backcharge SOIL CONTRACTOR for Work done or cost incurred to remedy these or any other SOIL CONTRACTOR defaults, errors, omissions or failures to perform or observe any part of this Soil Contract.

- 38.3 The cost to correct a SOIL CONTRACTOR's failure to comply or act as outlined above shall be PURCHASER's documented direct and indirect costs resulting therefrom.
- 38.4 PURCHASER shall separately invoice or deduct from payments otherwise due to SOIL CONTRACTOR the costs as provided herein. PURCHASER's right to backcharge is in addition to any and all other rights and remedies provided in this Soil Contract or by Applicable Law. The performance of backcharge work by PURCHASER shall not relieve SOIL CONTRACTOR of any of its responsibilities under this Soil Contract including but not limited to express warranties, specified standards for quality, contractual liabilities and indemnifications, and meeting the Soil Contract Milestone Dates.

#### **GC-39 INDEMNITY**

- 39.1 In addition to its indemnification, defense and hold harmless obligations contained elsewhere in this Soil Contract, SOIL CONTRACTOR shall indemnify, hold harmless and defend the PURCHASER Group and Management Contractor from any and all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) to the extent that such damages, losses, costs and expenses result from any of the following:
- (1) Failure of SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors to comply with Applicable Law; provided that this indemnity shall be limited to fines and penalties imposed on PURCHASER GROUP and Management Contractor and resulting from the failure of SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors to comply with Applicable Law;
  - (2) Any and all damages, losses, costs and expenses suffered by a Third Party and resulting from actual or asserted violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property owned by a Third Party to the extent that such violation or infringement results from performance of the Work by SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors, or any improper use of Third Party confidential information or other Third Party proprietary rights that may be attributable to SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors in connection with the Work;
  - (3) Contamination or pollution suffered by a Third Party to the extent resulting from SOIL CONTRACTOR's or any Subcontractor's or Sub-subcontractor's use, handling or disposal of Hazardous Materials brought on the Site by SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor;
  - (4) Failure by SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor to pay Taxes for which such Party or entity is liable;
  - (5) Failure of SOIL CONTRACTOR to make payments to any Subcontractor or Sub-subcontractor in accordance with the respective Subcontract or Sub-subcontract, but not extending to any settlement payment made to any Subcontractor or

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Sub-subcontractor against which SOIL CONTRACTOR has pending or prospective claims, unless such settlement is made with SOIL CONTRACTOR's consent, except after assumption of such Soil Contract by PURCHASER in accordance with GC-45.2; or

- (6) Personal injury to or death of any Person (other than employees of SOIL CONTRACTOR, or any employees of any member of the PURCHASER Group or the Management Contractor or any Subcontractor, or Sub-subcontractor), and damage to or destruction of property of Third Parties to the extent arising out of or resulting from the negligence in connection with the Work of any member of the SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor or anyone directly or indirectly employed by them.
- 39.2 NOTWITHSTANDING THE PROVISIONS OF GC-39.1 ABOVE, SOIL CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE PURCHASER GROUP AND MANAGEMENT CONTRACTOR, IF ANY, FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE SOIL CONTRACTOR GROUP OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY MEMBER OF THE SOIL CONTRACTOR GROUP OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OCCURRING PRIOR TO TANK S-105 SUBSTANTIAL COMPLETION OR SUBSTANTIAL COMPLETION BOP, WHICHEVER OCCURS LATER, IN EACH OF CASES (I) AND (II) OCCURRING IN CONNECTION WITH THE WORK OR THE PROJECT, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF ANY MEMBER OF THE PURCHASER GROUP OR MANAGEMENT CONTRACTOR.
- 39.3 EXCEPT AS OTHERWISE PROVIDED IN GC-39.2 OR GC-34.4, PURCHASER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS SOIL CONTRACTOR FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF ANY EMPLOYEES, OFFICERS OR DIRECTORS OF PURCHASER GROUP OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF PURCHASER GROUP (EXCLUDING THE FACILITY) OCCURRING PRIOR TO TANK S-105 SUBSTANTIAL COMPLETION OR SUBSTANTIAL COMPLETION BOP, WHICHEVER OCCURS LATER, IN EACH OF CASES (I) AND (II) OCCURRING IN CONNECTION WITH THE PROJECT, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF SOIL CONTRACTOR.



- 39.4 Should SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor or any other person, including any construction equipment lessor, acting through or under any of them, file a lien or other encumbrance against all or any portion of the Work, the Phase 2 Site or the Phase 2 Facility, SOIL CONTRACTOR shall, at its sole cost and expense, remove or discharge, by payment, bond or otherwise, such lien or encumbrance within twenty-one (21) Days of SOIL CONTRACTOR's receipt of written notice from PURCHASER notifying SOIL CONTRACTOR of such lien or encumbrance; provided that PURCHASER shall have made payment of all amounts properly due and owing to SOIL CONTRACTOR under this Soil Contract, other than amounts disputed. If SOIL CONTRACTOR fails to remove or discharge any such lien or encumbrance within such twenty-one (21) Day period in circumstances where PURCHASER has made payment of all amounts properly due and owing to SOIL CONTRACTOR under this Soil Contract, other than amounts disputed, then PURCHASER may, in its sole discretion and in addition to any other rights that it has under this Soil Contract, remove or discharge such lien and encumbrance using whatever means that PURCHASER, in its sole discretion, deems appropriate, including the payment of settlement amounts that it determines in its sole discretion as being necessary to remove or discharge such lien or encumbrance. In such circumstance, SOIL CONTRACTOR shall be liable to PURCHASER for all damages, costs, losses and expenses (including all reasonable attorneys' fees, consultant fees and arbitration expenses, and settlement payments) incurred by PURCHASER arising out of or relating to such removal or discharge. All such damages, costs, losses and expenses shall be paid by SOIL CONTRACTOR no later than thirty (30) Days after receipt of each invoice from PURCHASER.
- 39.5 Not later than fifteen (15) Days after receipt of written notice from the Indemnified Party to the Indemnifying Party of any claims, demands, actions or causes of action asserted against such Indemnified Party for which the Indemnifying Party has indemnification, defense and hold harmless obligations under this Soil Contract, whether such claim, demand, action or cause of action is asserted in a legal, judicial, arbitral or administrative proceeding or action or by notice without institution of such legal, judicial, arbitral or administrative proceeding or action, the Indemnifying Party shall affirm in writing by notice to such Indemnified Party that the Indemnifying Party will indemnify, defend and hold harmless such Indemnified Party and shall, at the Indemnifying Party's own cost and expense, assume on behalf of the Indemnified Party and conduct with due diligence and in good faith the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to such Indemnified Party; provided, however, that such Indemnified Party shall have the right to be represented therein by advisory counsel of its own selection, and at its own expense; and provided further that if the defendants in any such action or proceeding include the Indemnifying Party and an Indemnified Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, such Indemnified Party shall have the right to select up to one separate counsel to participate in the defense of such action or proceeding on its own behalf at the reasonable expense of the Indemnifying Party. In the event of the failure of the Indemnifying Party to perform fully in accordance with the defense obligations under this GC-39.5, such Indemnified Party may, at its option, and without relieving the Indemnifying Party of its obligations hereunder, so perform, but all

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damages, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses, settlement payments and judgments) so incurred by such Indemnified Party in that event shall be reimbursed by the Indemnifying Party to such Indemnified Party, together with reasonable interest on same from the date any such cost and expense was paid by such Indemnified Party until reimbursed by the Indemnifying Party.

- 39.6 Except as otherwise set forth in GC-39.2 and GC-39.3 above, the indemnity, defense and hold harmless obligations for personal injury or death or property damage under this Soil Contract shall apply regardless of whether the Indemnified Party was concurrently negligent (whether actively or passively), it being agreed by the Parties that in this event, the Parties' respective liability or responsibility for such damages, losses, costs and expenses under this GC-39 shall be determined in accordance with principles of comparative negligence.
- 39.7 PURCHASER and SOIL CONTRACTOR agree that the Louisiana Oilfield Anti-indemnity Act, LA. Rev. Stat. § 9:2780, et. seq., is inapplicable to this Soil Contract and the performance of the Work. Application of these code sections to this Soil Contract would be contrary to the intent of the Parties, and each Party hereby irrevocably waives any contention that these code sections are applicable to this Soil Contract or the Work. In addition, it is the intent of the Parties in the event that the aforementioned act were to apply to this Soil Contract that each Party shall provide insurance to cover the losses contemplated by such code sections and assumed by each such Party under the indemnification provisions of this Soil Contract, and SOIL CONTRACTOR agrees that the Soil Contract Price and the Unit Prices compensate SOIL CONTRACTOR for the cost of premiums for the insurance provided by it under this Soil Contract. The Parties agree that each Party's agreement to support their indemnification obligations by insurance shall in no respect impair their indemnification obligations.
- 39.8 In the event that any indemnity provisions in this Soil Contract are contrary to the law governing this Soil Contract, then the indemnity obligations applicable hereunder shall be applied to the maximum extent allowed by Applicable Law.
- 39.9 SOIL CONTRACTOR specifically waives any immunity provided against its indemnity obligations in this Soil Contract by any industrial insurance or workers' compensation statute.

#### **GC-40 PATENT AND INTELLECTUAL PROPERTY INDEMNITY**

- 40.1 SOIL CONTRACTOR hereby indemnifies and shall defend and hold harmless PURCHASER Group from and against any and all claims, actions, losses, damages, and expenses, including attorney's fees, arising from any claim, whether rightful or otherwise, that any concept, product, design, equipment, material, process, copyrighted material or confidential information, or any part thereof, furnished by SOIL CONTRACTOR under this Soil Contract constitutes an infringement of any patent or copyrighted material or a theft of trade secrets. If use of any part of such concept, product, design, equipment, material, process, copyrighted material or confidential

information is limited or prohibited, SOIL CONTRACTOR shall, at its sole expense, procure the necessary licenses to use the infringing or a modified but non-infringing concept, product, design, equipment, material, process, copyrighted material or confidential information or, with PURCHASER's prior written approval, replace it with substantially equal but non-infringing concepts, products, designs, equipment, materials, processes, copyrighted material or confidential information; provided, however,

- (1) That any such substituted or modified concepts, products, designs, equipment, material, processes, copyrighted material or confidential information shall meet all the requirements and be subject to all the provisions of this Soil Contract; and
  - (2) That such replacement or modification shall not modify or relieve SOIL CONTRACTOR of its obligations under this Soil Contract.
- 40.2 In the event that any violation or infringement for which SOIL CONTRACTOR is responsible to indemnify the PURCHASER Group as set forth in GC-39.1 and 40.1 above results in any suit, claim, temporary restraining order or preliminary injunction SOIL CONTRACTOR shall, in addition to its obligations under GC-39 and GC-40.1, make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order. If, in any such suit or claim, the Work, the Phase 2 Facility, or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, SOIL CONTRACTOR shall promptly make every reasonable effort to secure for PURCHASER a license, at no cost to PURCHASER, authorizing continued use of the infringing Work. If SOIL CONTRACTOR is unable to secure such a license within a reasonable time, SOIL CONTRACTOR shall, at its own expense and without impairing performance requirements, either replace the affected Work, in whole or part, with non-infringing components or parts or modify the same so that they become non-infringing.
- 40.3 The foregoing obligation shall not apply to any concept, product, design, equipment, material, process, copyrighted material or confidential information the detailed design of which (excluding rating and/or performance specifications) has been furnished in writing by PURCHASER to SOIL CONTRACTOR.

#### **GC-41 RIGHT TO WORK PRODUCT**

- 41.1 PURCHASER and its Affiliates shall have, and SOIL CONTRACTOR hereby grants PURCHASER and its Affiliates, a permanent, assignable, non-exclusive, royalty-free license to use on the Project or any other project of PURCHASER, or any of its Affiliates, any concept, product, process (patentable or otherwise), copyrighted material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs, and electronic software), and confidential information (i) owned by SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor upon commencement of the Work under this Soil Contract and used by SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor in connection with the Project or (ii) furnished or supplied to PURCHASER by SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor in the course of performance under this Soil Contract in connection with the Project and other projects (collectively the "Work Product").

- 41.2 Any concept, product, process (patentable or otherwise), copyrightable material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs and electronic software) or confidential information first developed, produced or reduced to practice by SOIL CONTRACTOR or any of its employees in the performance of this Soil Contract (collectively, with the definition in GC-41.1, the "Work Product") shall be the property of PURCHASER upon creation, whether or not delivered to PURCHASER at the time of creation, and shall upon request by PURCHASER (but in no event later than thirty (30) Days from Provisional Acceptance of the Work) be delivered to PURCHASER. Upon request by PURCHASER from time to time, SOIL CONTRACTOR agrees to do all things reasonably necessary, at PURCHASER's expense and as PURCHASER directs, to obtain patents or copyrights on any portion of such Work Product, to the extent the same may be patentable or copyrightable. SOIL CONTRACTOR further agrees to execute and deliver or cause to be executed and delivered such documents, including in particular instruments of assignment, as PURCHASER may in its discretion deem necessary or desirable to assign and transfer title to such Work Product to PURCHASER and to carry out the provisions of this clause.
- 41.3 SOIL CONTRACTOR shall identify portions of the Work Product, which contain Third Party Proprietary Work Product for which PURCHASER shall need to obtain permission from the appropriate owners of such Third Party Proprietary Work Product for use by PURCHASER or its Affiliates on projects other than the Project. Notwithstanding anything to the contrary in this Soil Contract, no license is granted to PURCHASER with respect to the use of any SOIL CONTRACTOR proprietary software or systems.
- 41.4 All Work Product, and all copies thereof, shall be returned or delivered to PURCHASER upon the earlier of expiration of the Defect Correction Period and termination of this Soil Contract, except that (i) SOIL CONTRACTOR may, subject to its confidentiality obligations set forth in General Condition 43, titled NONDISCLOSURE, retain one record set of the Work Product and may use and modify such Work Product, and (ii) Subcontractors and Sub-subcontractors may retain any Work Product generated by them so long as PURCHASER has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets each of fully editable and operable native and .pdf files of documents on CD for all such drawings and specifications.
- 41.5 All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by PURCHASER or any of PURCHASER's other consultants or contractors shall at all times remain the property of PURCHASER, and SOIL CONTRACTOR shall not make use of any such documents or other media for any other project or for any other purpose than as set forth herein. All such documents and other media, including all copies thereof, shall be returned to PURCHASER upon the earlier of expiration of the Defect Correction Period and termination of this Soil Contract, except that SOIL CONTRACTOR may, subject to its confidentiality obligations as set forth in GC-43, retain one record set of such documents or other media.

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**GC-42 ASSIGNMENTS AND SUBCONTRACTS**

- 42.1 Any SOIL CONTRACTOR assignment of this Soil Contract or rights hereunder, in whole or part, without the prior written consent of PURCHASER shall be void, except that upon ten (10) Days written notice to PURCHASER, SOIL CONTRACTOR may assign monies due or to become due under this Soil Contract, provided that any assignment of monies shall be subject to proper set-offs in favor of PURCHASER and any deductions provided for in this Soil Contract.
- 42.2 SOIL CONTRACTOR shall not subcontract with any Person for the performance of all or any portion of the Work without the advance written approval of PURCHASER. All Subcontracts and Sub-subcontracts must include provisions to secure all rights and remedies of PURCHASER provided under this Soil Contract, and must impose upon the Subcontractors and Sub-subcontractors all of the duties and obligations required to fulfill this Soil Contract.
- 42.3 All Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the terms or provisions of this Soil Contract. No Subcontractor or Sub-subcontractor is intended to be or shall be deemed a third-party beneficiary of this Soil Contract.
- 42.4 SOIL CONTRACTOR shall (i) notify PURCHASER of any proposed Major Subcontractor or Major Sub-subcontractor as soon as reasonably practicable during the selection process and furnish to PURCHASER all information reasonably requested with respect to SOIL CONTRACTOR's selection criteria, and (ii) notify PURCHASER no less than ten (10) Business Days prior to the execution of a Major Subcontract or Major Sub-subcontract with a Major Subcontractor or Major Sub-subcontractor. PURCHASER shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor for a Major Subcontract or Sub-subcontract. SOIL CONTRACTOR shall not enter into any Major Subcontract or Major Sub-subcontract with a proposed Major Subcontractor or Major Sub-subcontractor that is rejected by PURCHASER in accordance with the preceding sentence. PURCHASER shall undertake in good faith to review the information provided by SOIL CONTRACTOR, expeditiously and shall notify SOIL CONTRACTOR of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of PURCHASER to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor within twenty (20) Business Days shall be deemed to be an acceptance of such Major Subcontractor or Major Sub-subcontractor, but PURCHASER's acceptance of a proposed Major Subcontractor or Major Sub-subcontractor shall in no way relieve SOIL CONTRACTOR of its responsibility for performing the Work in compliance with this Soil Contract.

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- 42.5 For any Subcontractor or Sub-subcontractor having a Subcontract or Sub-subcontract value in excess of One Million U.S. Dollars (US \$1,000,000), SOIL CONTRACTOR shall, within fifteen (15) Business Days after the execution of any such Subcontract or Sub-subcontract, notify PURCHASER in writing of the selection of such Subcontractor or Sub-subcontractor and inform PURCHASER generally what portion of the Work such Subcontractor or Sub-subcontractor is performing.
- 42.6 Within ten (10) Days of PURCHASER's request, SOIL CONTRACTOR shall furnish PURCHASER with a copy of any Subcontract or Sub-subcontract, excluding provisions regarding pricing, discount or credit information, payment terms, payment schedules, retention, performance security, bid or proposal data, and any other information which SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor reasonably considers to be commercially sensitive information.
- 42.7 In addition to the requirements above and without in any way relieving SOIL CONTRACTOR of its full responsibility to PURCHASER for the acts and omissions of Subcontractors and Sub-subcontractors, each Major Subcontract and Major Sub-subcontract shall contain the following provisions:
- “This Subcontract [Sub-subcontract] and any subcontract between Subcontractor [Sub-subcontractor] and any of its lower-tier subcontractors may be assigned to PURCHASER without the consent of Subcontractor [Sub-subcontractor] or any of its lower-tier subcontractors provided, however, with respect to each construction equipment rental or lease agreement, Subcontractor [Sub-subcontractor] shall only be obligated to use its best efforts to include a provision that such agreement may be assigned to PURCHASER without the consent of the respective construction equipment lessor; and so far as reasonably practicable, the Subcontractor [Sub-subcontractor] shall comply with all requirements and obligations of SOIL CONTRACTOR to PURCHASER under their agreement, as such requirements and obligations are applicable to the performance of the Work under the respective Subcontract [Sub-subcontract].”
- 42.8 PURCHASER may, for the purpose of providing collateral, assign, pledge and/or grant a security interest in this Soil Contract to any Lender without SOIL CONTRACTOR's consent. When duly assigned in accordance with the foregoing, this Soil Contract shall be binding upon and shall inure to the benefit of the assignee; provided that any assignment by PURCHASER pursuant to this GC-42.8 shall not relieve PURCHASER of any of its obligations or liabilities under this Soil Contract.
- 42.9 PURCHASER may assign this Soil Contract to any of its Affiliates by providing notice to SOIL CONTRACTOR. When duly assigned in accordance with the foregoing, this Soil Contract shall be binding upon and shall inure to the benefit of the assignee, and all obligations of PURCHASER become obligations of the assignee. No such assignment shall relieve PURCHASER of any of its obligations or liabilities under this Soil Contract, unless SOIL CONTRACTOR consents in writing to such assignment.

- 42.10 This Soil Contract may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except that PURCHASER may assign this Soil Contract to any of its Affiliates by providing notice to SOIL CONTRACTOR. Furthermore, PURCHASER may, for the purpose of providing collateral, assign, pledge and/or grant a security interest in this Soil Contract to any Lender without SOIL CONTRACTOR's consent. When duly assigned in accordance with the foregoing, this Soil Contract shall be binding upon and shall inure to the benefit of the assignee; provided that any assignment by SOIL CONTRACTOR shall not relieve SOIL CONTRACTOR of any of its obligations or liabilities under this Soil Contract. Any assignment not in accordance with this GC-42 shall be void and without force or effect, and any attempt to assign this Soil Contract in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Soil Contract at its option for default.
- 42.11 This Soil Contract shall be binding upon the Parties hereto, their successors and permitted assigns.
- 42.12 If the Soil Contract is assigned by PURCHASER, the term "PURCHASER Group" shall nevertheless include (i) Sabine Pass LNG, L.P. and its parent, Lender and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above.

#### **GC-43 NONDISCLOSURE**

- 43.1 Subject to GC-43.4, SOIL CONTRACTOR agrees not to divulge to any Persons, without the written consent of PURCHASER, any information obtained from or through PURCHASER or its Affiliates in connection with the performance of this Soil Contract unless;
- (1) The information is known to SOIL CONTRACTOR prior to obtaining the same from PURCHASER;
  - (2) The information is, at the time of disclosure by SOIL CONTRACTOR, then in the public domain; or
  - (3) The information is obtained by SOIL CONTRACTOR from a Third Party who did not receive same, directly or indirectly from PURCHASER and who has no obligation of secrecy with respect thereto.
- 43.2 Subject to GC-43.4, SOIL CONTRACTOR further agrees that it will not, without the prior written consent of PURCHASER, disclose to any Person any information developed or obtained by SOIL CONTRACTOR in the performance of this Soil Contract except to the extent that such information falls within one of the categories described in (1) through (3) of GC-43.1 above.
- 43.3 If so requested by PURCHASER, SOIL CONTRACTOR further agrees to require its employees to execute a nondisclosure agreement prior to performing any Work under this Soil Contract.

- 43.4 SOIL CONTRACTOR hereby covenants and warrants that SOIL CONTRACTOR and its employees and agents shall not (without in each instance obtaining PURCHASER's prior written consent) disclose, make commercial or other use of, or give or sell to any person, other than to members of the SOIL CONTRACTOR Group, Subcontractors and Sub-subcontractors as necessary to perform the Work, any information conspicuously marked and identified in writing as confidential and relating to the business, products, services, research or development, clients or customers of PURCHASER or any PURCHASER Affiliate, or relating to similar information of a Third Party who has entrusted such information to PURCHASER or any of its Affiliates (hereinafter individually or collectively, "PURCHASER's Confidential Information"). Prior to disclosing any information that is covered by the confidentiality obligations in this GC-43 to any Subcontractor or Sub-subcontractor as necessary to perform the Work, SOIL CONTRACTOR shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this GC-43. Nothing in GC-43 or this Soil Contract shall in any way prohibit SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective SOIL CONTRACTOR's intellectual property or Third Party Proprietary Work Product.
- 43.5 The Parties acknowledge that in the event of a breach of any of the terms contained in GC-43, PURCHASER would suffer irreparable harm for which remedies at law, including damages, would be inadequate, and that PURCHASER shall be entitled to seek equitable relief therefor by injunction, without the requirement of posting a bond.
- 43.6 The confidentiality obligations of GC-43 shall expire upon the earlier of a period of ten (10) years following (i) the termination of this Soil Contract or (ii) Final Completion.

#### **GC-44 SUSPENSION**

- 44.1 PURCHASER may by written notice to SOIL CONTRACTOR, suspend at any time the performance of all or any portion of the Work to be performed under the Soil Contract. Upon receipt of such notice, SOIL CONTRACTOR shall, unless the notice requires otherwise:
- (1) Immediately discontinue Work on the date and to the extent specified in the notice;
  - (2) Place no further orders or subcontracts for material, services, or facilities with respect to suspended Work other than to the extent required in the notice;
  - (3) promptly make every reasonable effort to obtain suspension upon terms satisfactory to PURCHASER of all orders, Subcontracts, Sub-subcontracts and rental agreements to the extent they relate to performance of suspended Work;
  - (4) continue to protect and maintain the Work including those portions on which Work has been suspended;



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- (5) take any other reasonable steps to minimize costs associated with such suspension; and
  - (6) PURCHASER shall give SOIL CONTRACTOR instructions during suspension whether to maintain its staff and labor on or near the Phase 2 Site and otherwise be ready to proceed expeditiously with the Work as soon as reasonably practicable after receipt of PURCHASER's further instructions. Unless otherwise instructed by PURCHASER, SOIL CONTRACTOR shall during any such suspension maintain its staff and labor on or near the Phase 2 Site and otherwise be ready to proceed expeditiously with the Work as soon as reasonably practicable after receipt of PURCHASER's further instructions.
- 44.2 Upon receipt of notice to resume suspended Work, SOIL CONTRACTOR shall immediately resume performance under this Soil Contract to the extent required in the notice.
- 44.3 If SOIL CONTRACTOR intends to assert a claim for equitable adjustment under this clause it must, pursuant to General Condition 32, titled CHANGES and within ten (10) Days after receipt of notice to resume Work, submit the required written notification of claim and within twenty (20) Days thereafter its written proposal setting forth the impact of such claim. This GC-44.3 shall not apply in the event a suspension is ordered by PURCHASER due to a Force Majeure event.
- 44.4 In no event shall SOIL CONTRACTOR be entitled to any additional profits or damages due to such suspension.

#### **GC-45 TERMINATION FOR DEFAULT**

- 45.1 Notwithstanding any other provisions of this Soil Contract, SOIL CONTRACTOR shall be considered in default of its contractual obligations under this Soil Contract if it:
- (1) Performs Work which fails to conform to the requirements of this Soil Contract;
  - (2) Fails to make progress so as to endanger performance of this Soil Contract;
  - (3) Abandons or refuses to proceed with any of the Work, including modifications directed pursuant to General Condition 32, titled CHANGES;
  - (4) Fails to fulfill or comply with any of the terms of this Soil Contract;
  - (5) Fails to commence the Work in accordance with the provisions of this Soil Contract;
  - (6) Abandons the Work;
  - (7) Fails to maintain insurance required under this Soil Contract;
  - (8) Materially disregards Applicable Law or applicable standards and codes;

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- (9) Engages in behavior that is dishonest, fraudulent or constitutes a conflict of interest with SOIL CONTRACTOR's obligations under this Soil Contract; or if
- (10) SOIL CONTRACTOR suffers an Insolvency Event or makes a general assignment for the benefit of creditors.
- 45.2 Upon the occurrence of any of the foregoing, PURCHASER may notify SOIL CONTRACTOR in writing that SOIL CONTRACTOR is in default of this Soil Contract, and such notice shall include a general description of the nature of SOIL CONTRACTOR's default. With respect to any default in GC-45.1(1) – (9), (i) if SOIL CONTRACTOR does not cure any such default within forty-eight (48) hours after receipt of notification of such default or (ii) if such default cannot be cured within such forty-eight hour period through the diligent exercise of all commercially practicable efforts and SOIL CONTRACTOR either fails to diligently exercise all commercially practicable efforts to cure such condition or fails to cure such condition within thirty (30) Days after receipt of such notification of such default, PURCHASER may, by written notice to SOIL CONTRACTOR and without notice to SOIL CONTRACTOR's sureties, if any, terminate in whole or in part SOIL CONTRACTOR's right to proceed with the Work and PURCHASER may prosecute the Work to completion by contract or by any other method deemed expedient. If SOIL CONTRACTOR's default is due to an Insolvency Event as addressed in GC-45.1(10), PURCHASER may, by written notice to SOIL CONTRACTOR and without notice to SOIL CONTRACTOR's sureties, if any, immediately terminate in whole or in part SOIL CONTRACTOR's right to proceed with the Work and PURCHASER may prosecute the Work to completion by contract or by any other method deemed expedient. In addition, upon the occurrence of any default by SOIL CONTRACTOR, PURCHASER may take possession of and utilize any data, designs, Work Product, licenses, materials, plant, equipment, and tools, and property of any kind furnished by SOIL CONTRACTOR or Subcontractors or Sub-subcontractors and necessary to complete the Work, hire any or all of SOIL CONTRACTOR's employees and take assignment of any or all of the Subcontracts and Sub-subcontracts. SOIL CONTRACTOR's construction equipment and tools shall be returned upon completion of the Work, except to the extent title to such construction equipment and tools passed to PURCHASER under General Condition 34, titled TITLE AND RISK OF LOSS.
- 45.3 Notwithstanding the preceding subclauses, PURCHASER may immediately terminate this Soil Contract for default if SOIL CONTRACTOR's breach of its contractual obligations is considered not curable or for failure to cure safety violations.
- 45.4 SOIL CONTRACTOR and its sureties, if any, shall be liable for all costs in excess of the Unit Prices for such terminated Work reasonably and necessarily incurred in the completion of the Work, including acceleration in order to achieve the Soil Contract Milestone Dates, attorneys' fees, consultant fees and arbitration expenses and cost of administration of any purchase order or subcontract awarded to others for completion.
- 45.5 In addition to the amounts recoverable above, PURCHASER shall be entitled to delay damages under this SC-45, which, for this purpose, means (i) liquidated damages,

pursuant to SC-20, owed by SOIL CONTRACTOR to PURCHASER, if any, under this Soil Contract up to the date of termination, and (ii) during the period commencing after termination and ending on the date Tank S-105 Substantial Completion is achieved by a substitute subcontractor, the costs incurred during this period by such substitute subcontractor to accelerate the work in order to achieve the Tank S-105 Substantial Completion Milestone Date.

45.6 Upon termination for default, SOIL CONTRACTOR shall:

- (1) Immediately discontinue Work on the date and to the extent specified in the notice and place no further Subcontracts or Sub-subcontracts to the extent that they relate to the performance of the terminated Work;
- (2) Inventory, maintain and turn over to PURCHASER all data, designs, licenses, equipment, materials, plant, tools, and property furnished by SOIL CONTRACTOR or provided by PURCHASER for performance of the terminated Work;
- (3) Upon PURCHASER's written instructions, either promptly obtain cancellation upon terms satisfactory to PURCHASER of all Subcontracts, Sub-subcontracts, and any other agreements existing for performance of the terminated Work or assign those agreements as directed by PURCHASER or assign such agreements to PURCHASER in accordance with GC-45.2 above;
- (4) Cooperate with PURCHASER in the transfer of data, designs, licenses and information and disposition of Work in progress so as to mitigate damages;
- (5) Comply with other reasonable requests from PURCHASER regarding the terminated Work; and
- (6) Continue to perform in accordance with all of the terms and conditions of this Soil Contract such portion of the Work that is not terminated.

45.7 If, after termination pursuant to this clause, it is determined for any reason that SOIL CONTRACTOR was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to General Condition 46, titled OPTIONAL TERMINATION.

#### **GC-46 OPTIONAL TERMINATION**

46.1 PURCHASER may, at its option, terminate for convenience any of the Work under this Soil Contract in whole or in part, at any time, or from time to time, by written notice to SOIL CONTRACTOR. Such notice shall specify the extent to which the performance of the Work is terminated and the effective date of such termination. Upon receipt of such notice SOIL CONTRACTOR shall:

- (1) Immediately discontinue the Work on the date and to the extent specified in the notice and not enter into or place any further Subcontracts or Sub-subcontracts

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- other than as may be required for completion of such portion of the Work that is not terminated;
- (2) Promptly obtain assignment or cancellation upon terms satisfactory to PURCHASER of all Subcontracts and Sub-subcontracts existing for the performance of the terminated Work or assign those agreements as directed by PURCHASER;
  - (3) Assist PURCHASER in the maintenance, protection, and disposition of Work in progress, plant, tools, equipment, property, and materials acquired by SOIL CONTRACTOR or furnished by PURCHASER under this Soil Contract; and
  - (4) Complete performance of such portion of the Work that is not terminated.
- 46.2 Upon any such termination, SOIL CONTRACTOR shall waive any claims for damages, including loss of anticipated profits, on account thereof, but as the sole right and remedy of SOIL CONTRACTOR, PURCHASER shall pay in accordance with the following:
- (1) The Unit Prices corresponding to the Work performed in accordance with this Soil Contract prior to such notice of termination (including Change Orders);
  - (2) All reasonable costs for Work thereafter performed as specified in such notice;
  - (3) Reasonable administrative costs of settling and paying claims arising out of the termination of Work under Subcontracts or Sub-subcontracts;
  - (4) Reasonable costs incurred in demobilization and the disposition of residual material, plant and equipment; and
  - (5) A sum equal to five percent (5%) of the result obtained by subtracting all previous payments to SOIL CONTRACTOR from Thirty Million US Dollars (US\$30,000,000), but such sum shall not in any event exceed One Million U.S. Dollars (US\$1,000,000); and
  - (6) Less all payments made prior to termination.
- 46.3 SOIL CONTRACTOR shall submit within thirty (30) Days after receipt of notice of termination, a written statement setting forth its proposal for an adjustment to the Soil Contract Price to include only the incurred costs described in this clause. PURCHASER shall review, analyze, and verify such proposal, and negotiate an equitable adjustment, and the Soil Contract shall be modified accordingly.

#### **GC-47 ACCEPTANCE AND COMPLETION**

- 47.1 SOIL CONTRACTOR shall complete all the Work so that it shall, in every respect, be complete in accordance with the Soil Contract Milestone Dates for Tank S-104 Substantial Completion, Tank S-105 Substantial Completion and Final Completion

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contained in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.

- 47.2 “Tank S-104 Substantial Completion” means that all of the following have occurred: (i) SOIL CONTRACTOR has completed all applicable Work related to Tank S-104, other than punch-list Work, in accordance with the requirements contained in this Soil Contract, (ii) such Work is available to be used by PURCHASER for the purpose and in the manner for which it was intended; and (iii) SOIL CONTRACTOR has delivered to PURCHASER a Notice of Substantial Completion, certifying Tank S-104 Substantial Completion, and PURCHASER has accepted such Notice of Substantial Completion in writing. Such notice shall not be given and shall not be effective unless all Soil Contract requirements have been met or expressly waived in writing, in whole or in part, by PURCHASER.
- 47.3 “Tank S-105 Substantial Completion” means that all of the following have occurred: (i) SOIL CONTRACTOR has completed all applicable Work related to Tank S-105, other than punch-list Work, in accordance with the requirements contained in this Soil Contract, (ii) such Work is available to be used by PURCHASER for the purpose and in the manner for which it was intended; and (iii) SOIL CONTRACTOR has delivered to PURCHASER a Notice of Substantial Completion, certifying Tank S-105 Substantial Completion, and PURCHASER has accepted such Notice of Substantial Completion in writing. Such notice shall not be given and shall not be effective unless all Soil Contract requirements have been met or expressly waived in writing, in whole or in part, by PURCHASER.
- 47.4 “Substantial Completion BOP” means that all of the following have occurred: (i) SOIL CONTRACTOR has completed all applicable Work related to the Balance of Plant, other than punch-list Work, in accordance with the requirements contained in this Soil Contract, (ii) such Work is available to be used by PURCHASER for the purpose and in the manner for which it was intended; and (iii) SOIL CONTRACTOR has delivered to PURCHASER a Notice of Substantial Completion, certifying Substantial Completion BOP, and PURCHASER has accepted such Notice of Substantial Completion in writing. Such notice shall not be given and shall not be effective unless all Soil Contract requirements have been met or expressly waived in writing, in whole or in part, by PURCHASER.
- 47.5 “Final Completion” means that all of the following have occurred: (i) all requirements for Tank S-104 Substantial Completion, Tank S-105 Substantial Completion and Substantial Completion BOP have been met; (ii) all punch-list items and all other obligations of SOIL CONTRACTOR required by this Soil Contract have been fulfilled or waived (excluding SOIL CONTRACTOR’s warranty obligations).
- 47.6 No acceptance by PURCHASER of any or all of the Work or any other obligations of SOIL CONTRACTOR under this Soil Contract, including acceptance of Tank S-104 Substantial Completion and Tank S-105 Substantial Completion or Final Completion shall in any way release SOIL CONTRACTOR of any obligations or liability pursuant to this Soil Contract, including obligations with respect to unperformed obligations of this

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Soil Contractor or for any Work that does not conform to the requirements of this Soil Contract, including warranty obligations, any liabilities for which insurance is required or any other responsibility of Soil Contractor. The Parties agree that this provision is not intended to and does not expand SOIL CONTRACTOR's obligations under this Soil Contract.

#### **GC-48 COOPERATION WITH LENDER**

- 48.1 In addition to other assurances provided in this Soil Contract, SOIL CONTRACTOR acknowledges that PURCHASER intends to obtain project financing associated with the Project and SOIL CONTRACTOR agrees to cooperate with PURCHASER and Lender in connection with such project financing, including entering into direct agreements with Lender, as required by Lender, covering matters that are customary in project financings of this type such as Lender assignment or security rights with respect to this Agreement, direct notices to Lender and its independent engineer, step-in/step-out rights, execution of consent agreements, opinions of counsel, access by Lender's representative, including its independent engineer, and other matters applicable to such project financing. SOIL CONTRACTOR further agrees to amend this Soil Contract as reasonably requested by Lender. If such cooperation by SOIL CONTRACTOR, under this GC-48.1, causes a change in the Work affecting the Soil Contract Schedule, SOIL CONTRACTOR shall be entitled to an adjustment to the Soil Contract Milestone Dates if and to the extent permitted under General Condition 32, titled CHANGES.
- 48.2 SOIL CONTRACTOR shall, before issuance of the NTP, enter into mutually acceptable forms of consent and agreement with the Collateral Agent, substantially in the form of Exhibit "F." SOIL CONTRACTOR shall cooperate in considering appropriate and reasonable amendments to that form of consent and agreement as such amendments may be proposed by Lender or its counsel. SOIL CONTRACTOR shall, within fourteen (14) Days after the Effective Date, provide opinions of counsel reasonably acceptable to the Collateral Agent, including opinions on corporate matters, including due authorization and execution, and enforceability of the Soil Contract. SOIL CONTRACTOR acknowledges and agrees that PURCHASER's issuance of the NTP is contingent upon obtaining project financing in connection with this Project or other forms of financing.

#### **GC-49 ENGINEERING AND DESIGN RESPONSIBILITIES OF SOIL CONTRACTOR**

- 49.1 See Special Condition 3, titled DRAWINGS AND SPECIFICATIONS.

#### **GC-50 NON-WAIVER**

- 50.1 Failure by PURCHASER to insist upon strict performance of any terms or conditions of this Soil Contract, or failure or delay to exercise any rights or remedies provided herein or by Applicable Law, or failure to properly notify SOIL CONTRACTOR in the event of breach, or the acceptance of or payment for any Work hereunder, or the review or failure to review designs shall not release SOIL CONTRACTOR from any of the warranties or obligations of this Soil Contract and shall not be deemed a waiver of any right of PURCHASER to insist upon strict performance hereof or any of its rights or

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remedies as to any prior or subsequent default hereunder nor shall any termination of Work under this Soil Contract by PURCHASER operate as a waiver of any of the terms hereof.

#### **GC-51 SEVERABILITY**

- 51.1 The provisions of this Soil Contract are severable. If any provision shall be determined to be illegal or unenforceable, such determination shall have no effect on any other provision hereof, and the remainder of the Soil Contract shall continue in full force and effect so that the purpose and intent of this Soil Contract shall still be met and satisfied.

#### **GC-52 SURVIVAL**

- 52.1 All terms, conditions and provisions of this Soil Contract, which by their nature are independent of the period of performance, shall survive the cancellation, termination, expiration, default or abandonment of this Soil Contract.

#### **GC-53 EQUAL EMPLOYMENT OPPORTUNITY**

- 53.1 SOIL CONTRACTOR is aware of, and is fully informed of SOIL CONTRACTOR's obligations under Executive Order 11246 and, where applicable, shall comply with the requirements of such Order and all orders, rules, and regulations promulgated thereunder unless exempted therefrom.
- 53.2 Without limitation of the foregoing, SOIL CONTRACTOR's attention is directed to 41 Code of Federal Regulations (CFR), Section 60-1.4, and the clause titled "Equal Opportunity Clause" which, by this reference, is incorporated herein.
- 53.3 SOIL CONTRACTOR is aware of and is fully informed of SOIL CONTRACTOR's responsibilities under Executive Order No. 11701 "List of Job Openings for Veterans" and, where applicable, shall comply with the requirements of such Order and all orders, rules and regulations promulgated thereunder unless exempted therefrom.
- 53.4 Without limitation of the foregoing, SOIL CONTRACTOR's attention is directed to 41 CFR Section 60-250 et seq. and the clause therein titled "Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era", which by this reference, is incorporated herein.
- 53.5 SOIL CONTRACTOR certifies that segregated facilities, including but not limited to washrooms, work areas and locker rooms, are not and will not be maintained or provided for SOIL CONTRACTOR's employees. Where applicable, SOIL CONTRACTOR shall obtain a similar certification from any of its Subcontractors and Sub-subcontractors performing the Work under this Soil Contract.
- 53.6 SOIL CONTRACTOR is aware of and is fully informed of SOIL CONTRACTOR's responsibilities under the Rehabilitation Act of 1973 and the Americans with Disabilities Act and, where applicable, shall comply with the provisions of each Act and the regulations promulgated thereunder unless exempted therefrom.

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- 53.7 Without limitation of the foregoing, SOIL CONTRACTOR's attention is directed to 41 CFR Section 60-741 and the clause therein titled "Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers" which by this reference, is incorporated herein.

**GC-54 SMALL, MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES**

- 54.1 SOIL CONTRACTOR shall support PURCHASER's policy and commitment to maximizing, where practical, business opportunities for small, minority and women owned business enterprises (as identified in the Glossary appended to these General Conditions) by actively identifying, encouraging and assisting in their participation.

**GC-55 SUBORDINATION OF LIENS.**

- 55.1 SOIL CONTRACTOR hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by SOIL CONTRACTOR against any or all of the Work, the Phase 2 Site or Facility to any liens granted in favor of Lender, whether such lien in favor of Lender is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. SOIL CONTRACTOR agrees to comply with reasonable requests of PURCHASER for supporting documentation required by Lender in connection with such subordination, including any necessary lien subordination agreements.



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**EXHIBIT “A”**

**APPENDIX A-1**

**GLOSSARY**

**SMALL, MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES**

**Small Business Enterprise (SBE)**

A SBE is defined as a business enterprise, including affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualifies under the U.S. Small Business Administration criteria and size standards for small businesses as specifically defined in the Federal Acquisition Regulations (FAR).

**Minority Owned Business Enterprise (MBE)**

A MBE is defined as a business enterprise at least 51% owned by one or more individuals, as defined below, or in the case of any publicly owned business, at least 51% of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of those individuals.

Minority individuals are defined as African-Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans:

- (1) African-Americans are U.S. citizens whose origins are black racial groups in Africa;
- (2) Hispanic Americans are U.S. citizens whose origins are in the Spanish or Portuguese cultures of Mexico, Puerto Rico, Cuba, Central and South America, or the Caribbean;
- (3) Native Americans are U.S. citizens whose origins are in North America: American Indians, Aleuts, Eskimos and Native Hawaiians;
- (4) Asian-Pacific Americans are U.S. citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands, the Northern Mariana Islands, Laos, Cambodia, or Taiwan; and
- (5) Asian-Indian Americans are U.S. citizens whose origins are in India, Pakistan, or Bangladesh.

**Woman Owned Business Enterprise (WBE)**

A WBE is defined as a business enterprise that is at least 51% owned by a woman or women; or in the case of any publicly-owned business, at least 51% of the stock is owned by one or more

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women, who are U.S. citizens and whose management and daily business operations are controlled by one or more of those individuals.

**SBE/MBE/WBE Identification**

Those firms identifying themselves as SBE, MBE or WBE shall certify under the written signature of a duly authorized company officer (preferably the officer signing the contract document) that they meet the above requirements.

**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**  
**ENGINEER, PROCURE AND CONSTRUCT (EPC) UNIT RATE**  
**SOIL IMPROVEMENT CONTRACT**  
**EXHIBIT “B” SPECIAL CONDITIONS**

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## EXHIBIT "B" SPECIAL CONDITIONS

### SC-1 DEFINITIONS

- 1.1 "SOIL CONTRACTOR" means Remedial Construction Services, L.P., its authorized representatives, successors, and permitted assigns.
- 1.2 "PURCHASER" means Sabine Pass LNG, L.P. and its authorized representatives, successors in interest, and permitted assigns.
- 1.3 "AAA" has the meaning given in Special Condition 31, titled ARBITRATION.
- 1.4 "AAA Rules" has the meaning given in Special Condition 31, titled ARBITRATION.
- 1.5 "Affiliates" means any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party. 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.
- 1.6 "Applicable Law" means all laws, statutes, ordinances, orders, decrees, injunctions, licenses, Permits, approvals, rules, codes and regulations, including any conditions thereto, of any Governmental Instrumentality having jurisdiction over all or any portion of the siteSite or the Facility or performance of all or any portion of the Work or the operation of the Facility, or other legislative or administrative action of a Governmental Instrumentality, or a final decree, judgment or order of a court which relates to the performance of Work hereunder.
- 1.7 "Balance of Plant" or "BOP" means all Work required to be performed by SOIL CONTRACTOR except Work related to Tank S-104 and Tank S-105.
- 1.8 "Bechtel" means Bechtel Corporation.
- 1.9 "Books and Records" has the meaning given in General Condition 36, titled RECORDS AND AUDIT.
- 1.10 "Business Day" means every Day other than a Saturday, a Sunday or a Day that is an official holiday for employees of the federal government of the United States of America.
- 1.11 "Change Order" has the meaning given in General Condition 32, titled CHANGES.
- 1.12 "Change Order Request" has the meaning given in General Condition 32, titled CHANGES.
- 1.13 "Changes in Law" means any amendment, modification, superseding act, deletion, addition or change in or to Applicable Law (excluding changes to Tax laws where such Taxes are based upon Contractor's income or profits/losses) that occurs and takes effect

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after the Soil Contract Effective Date. A Change in Law shall include any official change in the interpretation or application of Applicable Law (including Applicable Codes and Standards set forth in Applicable Law), provided that such change is expressed in writing by the applicable Governmental Instrumentality.

- 1.14 "Collateral Agent" means the collateral agent under the credit agreement for the financing of the Project.
- 1.15 "Confidential Information" means one or both of SOIL CONTRACTOR's Confidential Information and PURCHASER's Confidential Information, as the context requires.
- 1.16 "Corrective Work" shall have the meaning set forth in General Condition 37, titled WARRANTY/DEFECT CORRECTION PERIOD.
- 1.17 "Day" means a calendar day.
- 1.18 "Defect" or "Defective" means any work or component thereof, that is not in conformity with any warranty.
- 1.19 "Defect Correction Period" means the period commencing upon Tank S-105 Substantial Completion or Substantial Completion BOP, whichever is later, and ending the later of 24 months after commencement or 36 Months after commencement where Corrective Work is performed.
- 1.20 "Disclosing Party" means the Party to whom confidentiality obligations are owed by the Receiving Party.
- 1.21 "Effective Date" has the meaning given in the Soil Contract Form of Agreement.
- 1.22 "Environmental Compliance Plan" means the plan required by GC-14.2.
- 1.23 "Excessive Monthly Precipitation" means that the total precipitation measured at the Phase 2 Site for the calendar month that the event in question occurred has exceeded the probability level of 0.6 for such calendar month for Weather Station 417174 BPT, Port Arthur AP Beaumont TX, as specified in the National Oceanic and Atmospheric Administration publication titled "Climatology of the U.S. No. 81, Supplement No. 1, Monthly Precipitation Probabilities and Quintiles, 1971-2000."  
The Parties recognize that the assessment as to whether or not total precipitation measured at the Phase 2 Site for a given calendar month constitutes Excessive Monthly Precipitation can only be made after the end of the calendar month in question.
- 1.24 "Facility" means the Phase 1 Facility and the Phase 2 Facility combined.
- 1.25 "FERC" means the Federal Energy Regulatory Commission.
- 1.26 "FERC Authorization" means the authorization given by the FERC on June 15, 2006, granting to PURCHASER the approvals requested in that certain application filed by

PURCHASER with the FERC on July 29, 2005, in Docket No. CP05-396-000 (as may be amended from time to time) pursuant to Section 3(a) of the Natural Gas Act and the corresponding regulations of the FERC.

- 1.27 "Final Completion" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.28 "Final Completion Certificate" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.29 "Final Conditional Lien and Claim Waiver" means the waiver and release provided to PURCHASER by SOIL CONTRACTOR and Major Subcontractors and Major Sub-subcontractors in accordance with the requirements of SC-15.10, which shall be in the forms of Exhibit "B" Appendix B-2, Form B-2-5 and B-2-7, respectively.
- 1.30 "Final Invoice" has the meaning given in Special Condition 15, titled INVOICING AND PAYMENT.
- 1.31 "Final Unconditional Lien and Claim Waiver" means the waiver and release provided to PURCHASER by SOIL CONTRACTOR and Major Subcontractors and Major Sub-subcontractors in accordance with the requirements of SC-15.10, which shall be in the forms of Exhibit "B" Appendix B-2, Form B-2-6 and B-2-8, respectively.
- 1.32 "Force Majeure" means any act or event that (i) prevents or delays the affected Party's performance of its obligations in accordance with the terms of this Soil Contract, (ii) is beyond the reasonable control of the affected Party, not due to its fault or negligence and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence. Force Majeure may include catastrophic storms or floods, Excessive Monthly Precipitation, lightning, tornadoes, hurricanes, a named tropical storm, earthquakes and other acts of God, wars, civil disturbances, revolution, acts of public enemy, acts of terrorism, credible threats of terrorism, revolts, insurrections, sabotage, riot, plague, epidemic, commercial embargoes, expropriation or confiscation of the Facility, epidemics, fires, explosions, industrial action or strike (except as excluded below), and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship unless such economic hardship was otherwise caused by Force Majeure; (ii) changes in market conditions unless any such change in market conditions was otherwise caused by Force Majeure; (iii) industrial actions and strikes involving only the employees of SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors, except for industrial actions and strikes involving the employees of the contractor supplying the nickel steel for the Phase 2 Tanks; or (iv) nonperformance or delay by SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay was otherwise caused by Force Majeure.
- 1.33 "Geotechnical Reports" means the following reports, each prepared by Tolunay-Wong Engineers, Inc. and provided by PURCHASER to SOIL CONTRACTOR prior to the

Effective Date: (i) Geotechnical Investigation Phase 2 Expansion, Sabine LNG Import Terminal, Cameron Parish, Louisiana, TWEI No. 05-H028, dated July 2005; and (ii) Geological Hazard Evaluation, Sabine LNG Terminal, Sabine, Louisiana, dated September 19, 2003.

- 1.34 “Good Engineering and Construction Practices” or “GECP” means the generally accepted practices, skill, care, methods, techniques and standards employed by the international LNG industry at the time of the Effective Date that are commonly used in prudent engineering, procurement and construction to safely design, construct, pre-commission, commission, start-up and test LNG related facilities of similar size and type as the Phase 2 Facility, in accordance with Applicable Law and applicable codes and standards.
- 1.35 “Goods” has the meaning given in General Condition 34, titled TITLE AND RISK OF LOSS.
- 1.36 “Governmental Instrumentality” means any federal, state or local department, office, instrumentality, agency, board or commission having jurisdiction over a Party or any portion of the Work, the Facility or the Site.
- 1.37 “Hazardous Material(s)” means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.
- 1.38 “Indemnified Party” means any member of the PURCHASER Group or SOIL CONTRACTOR Group, or Management Contractor to which an indemnification obligation is owed, as the context requires.
- 1.39 “Indemnifying Party” means the Party with the indemnification obligation, as the context requires.
- 1.40 “Insolvency Event” means, in relation to any Party, the bankruptcy, insolvency, liquidation, administration, administrative or other receivership or dissolution of such Party, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution or making a general assignment or filing for the benefit of its creditors) for or with a view toward any of the foregoing.



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- 1.41 “Interim Conditional Lien Waiver” means the conditional waiver and release provided to PURCHASER by SOIL CONTRACTOR and Major Subcontractors and Major Sub-subcontractors in accordance with the requirements of SC-15.4, which shall be in the forms of Exhibit “B” Appendix B-2, Form B-2-1 and B-2-3, respectively.
- 1.42 “Interim Unconditional Lien Waiver” means the unconditional waiver and release provided to PURCHASER by SOIL CONTRACTOR, Major Subcontractors and Major Sub-subcontractors in accordance with the requirements of SC-15.4, which shall be in the forms of Exhibit “B” Appendix B-2, Form B-2-2 and B-2-4, respectively.
- 1.43 “Invoice” has the meaning given in Special Condition 15, titled INVOICING AND PAYMENT.
- 1.44 “Key Personnel” (or any one of them as a “Key Person”) shall have the meaning set forth in Special Condition 27, titled KEY PERSONNEL.
- 1.45 “Landowner” means any landowner that has leased land or provided a right of way or easement to any member of the PURCHASER Group in connection with the Project.
- 1.46 “Lender” means any entity or entities providing temporary or permanent debt financing to PURCHASER for the Phase 2 Facility.
- 1.47 “Letter of Credit” has the meaning set forth in Special Condition 13, titled LETTER OF CREDIT.
- 1.48 “Level III Schedule” means a level of detail in a CPM schedule in which the work breakdown structure is at an area level and shall involve over three hundred (300) activities per Phase 2 Tank. The deliverables by each engineering discipline are captured at this level.
- 1.49 “Limited Notice to Proceed” or “LNTP” shall have the meaning set forth in SC-8.8.
- 1.50 “LNG” means liquefied Natural Gas.
- 1.51 “Louisiana Sales and Use Tax” shall have the meaning set forth in the Special Condition 43 titled LOUISIANA SALES AND USE TAXES.
- 1.52 “Major Subcontract” means any Subcontract having an aggregate value in excess of One Million U.S. Dollars (US \$1,000,000).
- 1.53 “Major Subcontractor” means any Subcontractor with whom SOIL CONTRACTOR enters, or intends to enter, into a Major Subcontract.
- 1.54 “Major Sub-subcontract” means any Sub-subcontract having an aggregate value in excess of One Million U.S. Dollars (US \$1,000,000).
- 1.55 “Major Sub-subcontractor” means any Sub-subcontractor that enters, or intends to enter, into a Major Sub-subcontract.

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- 1.56 “Management Contractor” means the construction manager engaged by PURCHASER to manage the Work performed under the Soil Contract and so designated in writing by PURCHASER as “Management Contractor.” Such Management Contractor must be reasonably acceptable to SOIL CONTRACTOR, and for purposes of the foregoing, the Parties agree in advance that Bechtel is reasonably acceptable to SOIL CONTRACTOR.
- 1.57 “Monthly Quantity Statement” has the meaning given in Special Condition 14, titled MEASUREMENT FOR PAYMENT.
- 1.58 “Natural Gas” means combustible gas consisting primarily of methane.
- 1.59 “Notice to Proceed” or “NTP” means the notice given by PURCHASER to SOIL CONTRACTOR authorizing and requiring SOIL CONTRACTOR to begin to perform SOIL CONTRACTOR’s complete Scope of Work.
- 1.60 “Operating Plant Procedures” means any and all safety, security, operations, maintenance and other procedures for the Facility, the Phase 1 Project, the Phase 2 Project, or any parts thereof, written by PURCHASER for the purpose of or with respect to the operation of the Phase 1 Facility.
- 1.61 “Party” or “Parties” has the meaning specified in the Soil Contract Form of Agreement.
- 1.62 “Permit” means any valid waiver, certificate, approval, consent, license, exemption, variance, franchise, permit, authorization or similar order or authorization from any Governmental Instrumentality required to be obtained or maintained in connection with the Facility, the Phase 2 Site or the Work. Permit includes PURCHASER Permits and SOIL CONTRACTOR Permits.
- 1.63 “Person” means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.
- 1.64 “Phase 1 EPC Agreement” means the Engineering, Procurement and Construction Agreement for the Sabine Pass LNG Terminal by and between Bechtel and Sabine Pass LNG, L.P., dated December 18, 2004.
- 1.65 “Phase 1 Facility” means the facilities existing or contemplated for the Phase 1 Project, including the LNG receiving, storage and regasification facilities.
- 1.66 “Phase 1 Project” means the Sabine Pass LNG Terminal, located at Sabine Pass, Louisiana, including the LNG receiving, storage and regasification facilities to be engineered, procured, constructed, pre-commissioned, commissioned and tested by Bechtel for PURCHASER, pursuant to the Phase 1 EPC Agreement.
- 1.67 “Phase 1 Site” means that portion of Sabine Pass, Louisiana at which the construction activity is being or shall be performed for the Phase 1 Project.

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- 1.68 "Phase 1 Tanks" means the three (3) LNG tanks for the Phase 1 Project, designated as Tanks S-101, S-102, and S-103.
- 1.69 "Phase 2 Facility" means the facilities existing or contemplated for the Phase 2 Project, including the LNG receiving, storage and regasification facilities.
- 1.70 "Phase 2 Project" means the expansion of the Sabine Pass LNG Terminal, located at Sabine Pass, Louisiana, including additional LNG receiving, storage and regasification facilities.
- 1.71 "Phase 2 Site" means that portion of Sabine Pass at which the construction activity is being or shall be performed for the Phase 2 Project.
- 1.72 "Phase 2 Tanks" means the LNG tanks to be engineered, procured and constructed for the Phase 2 Facility, designated as Tank S-104 and Tank S-105.
- 1.73 "Project" means the engineering, procurement and construction of the Phase 2 Tanks and other Work covered by this Soil Contract.
- 1.74 "PURCHASER Group" means (i) PURCHASER, its parent, Lender, and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above. For avoidance of doubt, Management Contractor is not a member of PURCHASER Group.
- 1.75 "PURCHASER Permits" means the Permits listed in Exhibit "B" Appendix B-3 and any other Permits (not listed in Appendix B-3) necessary for performance of the Work or the operation of the Facility and which are required to be obtained in the name of PURCHASER or its Affiliates pursuant to Applicable Law.
- 1.76 "Quality Assurance Plan" has the meaning given in General Condition 35, titled QUALITY ASSURANCE PROGRAM.
- 1.77 "Ready For Cool Down" or "RFCD" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.78 "Receiving Party" means the Party having confidentiality obligations with respect to such Confidential Information.
- 1.79 "Retainage" has the meaning given in Special Condition 15, titled INVOICING AND PAYMENT.
- 1.80 "Safety and Health Plan" or "S&H Plan" shall have the meaning given in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.
- 1.81 "Scope of Work" means the entirety of the Work.
- 1.82 "Security Plan" shall have the meaning given in Special Condition 11, titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.

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- 1.83 "Site" means the Phase 1 Site and the Phase 2 Site combined.
- 1.84 "Soil Contract Documents" shall have the meaning set forth in the Soil Contract Form of Agreement.
- 1.85 "Soil Contract Milestone Date(s)" means the established completion date(s) set forth in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.
- 1.86 "Soil Contract Price" means the compensation in full to SOIL CONTRACTOR for the full and complete performance of the Work and all of SOIL CONTRACTOR's other obligations under this Soil Contract. The Soil Contract Price shall be based upon the Unit Prices set forth in Exhibit "C" to this Soil Contract, and the final amount of the Soil Contract Price will be determined upon completion of all of the Work by SOIL CONTRACTOR.
- 1.87 "Soil Contract Schedule" means the Work execution schedule developed and approved pursuant to Special Condition 9, titled SOIL CONTRACT SCHEDULE.
- 1.88 "SOIL CONTRACTOR Group" means (i) SOIL CONTRACTOR and its Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above.
- 1.89 "SOIL CONTRACTOR Permits" means the Permits necessary for the performance of the Work and which are required to be obtained in the name of SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors.
- 1.90 "Subcontract" means any agreement by and between SOIL CONTRACTOR and a Subcontractor for the performance of any portion of the Work.
- 1.91 "Subcontractor" means any Person, including an equipment supplier or vendor, who has a direct contract with SOIL CONTRACTOR to manufacture or supply equipment, materials or labor that are portion of the Work, to lease construction equipment to SOIL CONTRACTOR in connection with the Work, or to otherwise perform any portion of the Work.
- 1.92 "Sub-subcontract" means any agreement by and between a Subcontractor and a Sub-subcontractor or by and between a Sub-subcontractor and another Sub-subcontractor for the performance of any portion of the Work.
- 1.93 "Sub-subcontractor" means any Person who has a direct or indirect contract with a Subcontractor another Sub-subcontractor to manufacture or supply equipment, materials or labor that are a portion of the Work, to lease construction equipment to a Subcontractor or another Sub-subcontractor in connection with the Work, or to otherwise perform any portion of the Work. For avoidance of confusion, a Sub-subcontractor is any lower tier subcontractor, vendor or labor broker that enters into a contract, receives a purchase order, or otherwise agrees, to perform any portion of the Work.

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- 1.94 "Substantial Completion BOP" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.95 "Substantial Completion Certificate" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.96 "Subsurface Soil Conditions" means subsurface conditions at the Phase 2 Tank Site.
- 1.97 "Tank S-104" has the meaning set forth in the definition of Phase 2 Tanks.
- 1.98 "Tank S-105" has the meaning set forth in the definition of Phase 2 Tanks.
- 1.99 "Tank S-104 Substantial Completion" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.100 "Tank S-105 Substantial Completion" has the meaning given in General Condition 47, titled ACCEPTANCE AND COMPLETION.
- 1.101 "Taxes" means any and all taxes, assessment, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including Louisiana Sales and Use Taxes, value-added, sales, use, gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, premium, franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.
- 1.102 "Third Party" means any Person other than a member of (i) the PURCHASER Group, (ii) the SOIL CONTRACTOR Group, or (iii) the Management Contractor, if any, or (iv) Subcontractor or Sub-subcontractor or any employee, officer or director of such Management Contractor, Subcontractor or Sub-subcontractor.
- 1.103 "Third Party IP" means any patent, copyright or trade secret held by a Third Party.
- 1.104 "Unit Prices" has the meaning specified in Special Condition 14, titled MEASUREMENT FOR PAYMENT.
- 1.105 "Work" means all the stated or implied activities to be performed by SOIL CONTRACTOR as required by the Soil Contract Documents, including, without limitation, the supply of equipment and materials.
- 1.106 "Work Product" has the meaning given in General Condition 41, titled RIGHT TO WORK PRODUCT.

The meanings specified in this SC-1 are applicable to both the singular and plural. As used in the Soil Contract, the terms "herein," "herewith," "hereunder" and "hereof" are references to the Soil Contract taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof.

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## SC-2 INSURANCE

- 2.1 Unless otherwise specified in this Soil Contract, SOIL CONTRACTOR shall, at its sole expense, maintain in effect at all times during the performance of the Work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to PURCHASER. SOIL CONTRACTOR shall deliver to PURCHASER no later than ten (10) Days after the Effective Date, but in any event prior to commencing the Work or entering the Phase 2 Site, certificates of insurance or policies as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates or policies shall be issued in the form provided by PURCHASER or if none is provided in a form acceptable to PURCHASER and provide that not less than thirty (30) Days advance written notice will be given to PURCHASER prior to cancellation, termination or material alteration of said policies of insurance. Certificates shall identify on their face the Phase 2 Project and the Soil Contract.
- 2.2 Standard Coverage
- (1) Workers' Compensation as required by any Applicable Law or regulation.
  - (2) If there is an exposure of injury to SOIL CONTRACTOR's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
  - (3) Employer's Liability of not less than:  
US \$1,000,000 each accident;  
US \$1,000,000 disease each employee;  
and US \$1,000,000 disease policy limit.
  - (4) Commercial General Liability Insurance
    - (a) Coverage  
SOIL CONTRACTOR shall carry Commercial General Liability Insurance covering all operations by or on behalf of SOIL CONTRACTOR providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below, subject to a maximum deductible of US \$100,000 and including coverage for:
      - (a.1) Premises and Operations;
      - (a.2) Products and Completed Operations for two (2) years after Tank S-105 Substantial Completion or Substantial Completion BOP, whichever is later;

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- (a.3) Contractual Liability insuring the indemnity agreement in the General Condition 39, titled INDEMNITY;
  - (a.4) Broad form Property Damage (including Completed Operations);
  - (a.5) Explosion, Collapse and Underground Hazards; and
  - (a.6) Personal Injury Liability.

The Commercial General Liability insurance shall be the Occurrence Coverage Form.

(b) Policy Limits

- (b.1) For SOIL CONTRACTOR's Commercial General Liability Insurance, the limits of liability for bodily injury, property damage, and personal injury shall be not less than:

US \$10,000,000 Combined single limit for Bodily Injury and Property Damage each occurrence;

US \$10,000,000 Personal Injury Limit each occurrence;

US \$10,000,000 Products-Completed Operations Annual Aggregate Limit; and

US \$10,000,000 General Annual Aggregate Limit with such limits dedicated to the Project.

- (b.2) If the policy does not have an endorsement providing the General Annual Aggregate limits are as indicated above SOIL CONTRACTOR shall provide an endorsement titled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than US \$10,000,000 and a General Annual Aggregate Limit of not less than US \$10,000,000. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(c) "Additional Insureds"

- (c.1) All members of the PURCHASER Group and Management Contractor shall be named as Additional Insureds under the Commercial General Liability Insurance policy. Such insurance shall include an insurer's waiver of subrogation in favor of the Additional Insureds, be primary as regards any other coverage maintained for or by the Additional Insureds, and shall contain a cross-liability or severability of interest clause.

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- (5) Commercial Automobile Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned.
- (a) The combined single limit for Bodily Injury and Property Damage Liability shall be not less than US \$1,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.
- (b) SOIL CONTRACTOR's Commercial Automobile Liability Insurance shall include coverage for Automobile Contractual Liability and shall be subject to a maximum deductible of US\$25,000.
- (6) SOIL CONTRACTOR's Construction Equipment Floater covering all construction equipment and items (whether owned, rented, or borrowed) of SOIL CONTRACTOR that will not become part of the Phase 2 Facility. It is understood that this coverage shall not be included under the builders risk policy. Notwithstanding anything to the contrary contained herein, SOIL CONTRACTOR shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such construction equipment. SOIL CONTRACTOR shall require all insurance policies (including policies of SOIL CONTRACTOR, Subcontractors and Sub-subcontractors) in any way relating to such construction equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against all members of the PURCHASER Group and Management Contractor.

2.3 Special Operations Coverage

Should any of the Work:

- (1) Involve marine operations, SOIL CONTRACTOR shall provide or have provided coverage for liabilities arising out of such marine operations, including contractual liability under its Commercial General Liability Insurance or Marine Hull and Machinery Insurance and Protection and Indemnity Insurance. In the event such marine operations involve any SOIL CONTRACTOR owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, SOIL CONTRACTOR agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be no less than the market value of the vessel. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverages shall include coverage for contractual liability, wreck removal, Tower's liability if applicable; and full collision coverage and shall be endorsed:
- (a) To provide full coverage to PURCHASER Group and Management Contractor as Additional Insureds without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language that would limit coverage to liability of an insured "as owner of the vessel;" and



- (b) To waive any limit to full coverage for the Additional Insureds provided by any applicable liability statute.

All marine insurances provided by SOIL CONTRACTOR shall include an Insurer's waiver of subrogation in favor of the Additional Insureds.

- (2) Involve the hauling of property in excess of US \$300,000, SOIL CONTRACTOR shall also carry "All Risk" Transit Insurance, or "All Risk" Motor Truck Cargo Insurance, or such similar form of insurance that will insure against physical loss or damage to the property being transported, moved or handled by SOIL CONTRACTOR pursuant to the terms of this Soil Contract. Such insurance shall provide a limit of not less than the replacement cost of the highest value being moved, shall insure the interest of SOIL CONTRACTOR, PURCHASER Group, and Management Contractor, as their respective interests may appear and shall include an insurer's waiver of subrogation rights in favor of them.
- (3) Involve aircraft (fixed wing or helicopter) owned, operated or chartered by SOIL CONTRACTOR, liability arising out of such aircraft shall be insured for a combined single limit not less than US \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. Such insurance shall name PURCHASER Group and Management Contractor as Additional Insureds, include an insurer's waiver of subrogation in favor of the Additional Insureds, state that it is primary insurance as regards the Additional Insureds and contain a cross-liability or severability of interest clause. If the aircraft hull is insured, such insurance shall provide for an insurer's waiver of subrogation rights in favor of PURCHASER Group and Management Contractor. In the event SOIL CONTRACTOR charts aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.
- (4) Involve investigation, removal or remedial action concerning the actual or threatened escape of Hazardous Materials, SOIL CONTRACTOR shall also carry Pollution Liability Insurance in an amount not less than US \$2,000,000 per occurrence/annual aggregate. Such insurance shall provide coverage for both sudden and gradual occurrences arising from the Work performed under this Soil Contract. If Completed Operations is limited in the policy, such Completed Operation Coverage shall be for a period of not less than five (5) years. Such insurance shall include a three (3) year extended discovery period and shall name PURCHASER Group and Management Contractor as Additional Insureds.
- (5) Involve inspection, handling or removal of asbestos, SOIL CONTRACTOR shall also carry Asbestos Liability Insurance in an amount not less than US \$2,000,000 per occurrence/annual aggregate. The policy shall be written on an "Occurrence

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Basis” with no sunset clause. Such insurance shall name PURCHASER Group and Management Contractor as Additional Insureds.

- (6) Involve transporting Hazardous Materials, SOIL CONTRACTOR shall also carry Business Automobile Insurance covering liability arising out of the transportation of Hazardous Materials in an amount not less than US \$2,000,000 per occurrence. Such policy shall include Motor Carrier Endorsement MCS-90. PURCHASER GROUP SHALL NOT BE NAMED AN ADDITIONAL INSURED FOR THIS POLICY.
- (7) Involve treatment, storage or disposal of Hazardous Materials, SOIL CONTRACTOR shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Environmental Liability Insurance in the amount of not less than US \$5,000,000 per occurrence/annual aggregate.

2.4 Related Obligations:

- (1) The requirements contained herein as to types and limits, as well as PURCHASER’s approval of insurance coverage to be maintained by SOIL CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by SOIL CONTRACTOR under this Soil Contract.
- (2) The certificates of insurance must provide clear evidence that SOIL CONTRACTOR’s insurance policies contain the minimum limits of coverage and the special provisions prescribed in this clause.
- (3) All insurance required to be obtained by SOIL CONTRACTOR pursuant to this Soil Contract shall be from an insurer or insurers permitted to conduct business as required by Applicable Law and shall be rated with either an “A-: IX” or better by Best’s Insurance Guide Ratings or “A-” or better by Standard and Poor’s.
- (4) The following insurance policies provided by SOIL CONTRACTOR shall include PURCHASER Group and Management Contractor as Additional Insureds: employer’s liability, commercial automobile liability, aircraft liability, marine hull and machinery, charterer’s liability, asbestos liability, protection and indemnity, commercial general liability and pollution liability insurance.
- (5) All policies of insurance provided by SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor pursuant to this Soil Contract shall include clauses providing that each underwriter shall waive its rights of recovery, under subrogation or otherwise, against all members of the PURCHASER Group and Management Contractor.
- (6) The insurance policies of SOIL CONTRACTOR and any Subcontractor or Sub-subcontractor shall state that such coverage is primary and non-contributory to any other insurance or self-insurance available to or provided by the PURCHASER Group.

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- (7) All policies (other than in respect to worker's compensation insurance) shall insure the interests of the PURCHASER Group regardless of any breach or violation by SOIL CONTRACTOR or any other party of warranties, declarations or conditions contained in such policies, any action or inaction of PURCHASER Group or others, or any foreclosure relating to the Project or any change in ownership of all or any portion of the Project.
  - (8) At the request of PURCHASER, SOIL CONTRACTOR shall promptly provide PURCHASER with certified copies of each of the insurance policies maintained by SOIL CONTRACTOR, or if the policies have not yet been received by SOIL CONTRACTOR, then with binders of insurance, duly executed by the insurance agent, broker or underwriter fully describing the insurance coverages effect.
  - (9) All insurance policies shall include coverage for jurisdiction within the United States of America or other applicable jurisdiction.
  - (10) SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors shall do nothing to void or make voidable any of the insurance policies purchased and maintained by PURCHASER or SOIL CONTRACTOR or any Subcontractors or Sub-subcontractors hereunder. SOIL CONTRACTOR shall promptly give PURCHASER and Lender notice in writing of the occurrence of any casualty, claim, event, circumstance, or occurrence that may give rise to a claim under an insurance policy hereunder and arising out of or relating to the performance of the Work. In addition, SOIL CONTRACTOR shall ensure that PURCHASER is kept fully informed of any subsequent action and developments concerning the same, and assist in the investigation of any such casualty, claim, event, circumstance or occurrence.
  - (11) SOIL CONTRACTOR's certificate of insurance form, completed by SOIL CONTRACTOR's insurance agent, broker or underwriter, shall reflect all of the insurance required by SOIL CONTRACTOR, the recognition of additional insured status, waivers of subrogation, and primary/non-contributory insurance requirements contained in this Soil Contract.
  - (12) Prior to the commencement of any Work, SOIL CONTRACTOR shall deliver to PURCHASER certificates of insurance reflecting all of the insurance required of SOIL CONTRACTOR under this Soil Contract. All certificates of insurance and associated notices and correspondence concerning such insurance shall be addressed to the contact information listed in the Soil Contract.
  - (13) Policy Cancellation and Change: All policies of insurance required to be maintained pursuant to this Soil Contract shall be endorsed so that if at any time they are canceled, or their coverage is reduced (by any party including the insured) so as to affect the interests of PURCHASER Group, such cancellation or

reduction shall not be effective as to PURCHASER Group for sixty (60) Days after receipt by PURCHASER Group of written notice from such insurer of such cancellation or reduction.

- (14) Reports: SOIL CONTRACTOR will advise PURCHASER in writing promptly of (1) any material changes in the coverage or limits provided under any policy required by this Soil Contract and (2) any default in the payment of any premium and of any other act or omission on the part of SOIL CONTRACTOR which may invalidate or render unenforceable, in whole or in part, any insurance being maintained by SOIL CONTRACTOR pursuant to this Soil Contract.
- (15) Lender Requirements: SOIL CONTRACTOR agrees to cooperate with PURCHASER and as to any changes in or additions to the foregoing insurance provisions made necessary by requirements imposed by Lender (including additional insured status, notice of cancellation, certificates of insurance).
- (16) SOIL CONTRACTOR shall provide evidence, reasonably satisfactory to PURCHASER, evidencing insurance to cover the risk of loss for materials and Goods while in SOIL CONTRACTOR's facilities or in transit.
- (17) SOIL CONTRACTOR shall ensure that each Subcontractor and Sub-subcontractor shall either be covered by the insurance provided by SOIL CONTRACTOR pursuant to this Soil Contract, or by insurance procured by a Subcontractor or Sub-subcontractor. Should a Subcontractor or Sub-subcontractor be responsible for procuring its own insurance coverage, SOIL CONTRACTOR shall ensure that each such Subcontractor or Sub-subcontractor shall procure and maintain insurance to the full extent required of SOIL CONTRACTOR under this Soil Contract and shall be required to comply with all of the requirements imposed on SOIL CONTRACTOR with respect to such SOIL CONTRACTOR-provided insurance on the same terms as SOIL CONTRACTOR, except that SOIL CONTRACTOR shall have the sole responsibility for determining the limits of coverage required to be obtained by such Subcontractors or Sub-subcontractors in accordance with reasonably prudent business practices. All such insurance shall be provided for at the sole cost of SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors. Failure of Subcontractors or Sub-subcontractors to procure and maintain such insurance coverage shall not relieve SOIL CONTRACTOR of its responsibilities under the Soil Contract.

2.5 PURCHASER Furnished Insurance:

PURCHASER shall provide the following insurances:

- (1) Builder's Risk Insurance: Property damage insurance on an "all risk" basis insuring SOIL CONTRACTOR, PURCHASER and Lender, as their interests may appear, including coverage against loss or damage from the perils of startup and testing.

- (a) Sum Insured: The insurance policy shall, subject to form exclusions, (i) be on a completed value form, with no periodic reporting requirements, (ii) insure one hundred percent (100%) of the Phase 2 Facility's insurable values, except that for property loss and damage caused by flood and windstorm, such policy shall have a sub-limit not less than US \$400,000,000 for the Facility, and for property loss and damage caused by strikes, riots and civil commotion, such policy shall have a sub-limit not less than US \$100,000,000 for the Facility, and (iii) value losses at replacement cost, without deduction for physical depreciation or obsolescence including custom duties, Taxes and fees.

Category of Builders Risk	Deductible
(i.) Windstorm & Flood	2% of values at risk at time of loss subject to a minimum of US\$ 1,000,000 each and every loss and a maximum of US \$5,000,000 each and every loss
(ii.) Other natural perils	US\$ 500,000 each and every loss
(iii.) Loss or damage to Wet Works (defined as works in on or over river or tidal waters)	US\$ 1,000,000 each and every loss
(iv.) Loss of or damage arising from commissioning/testing and tank fill and LEG 3/96	US\$ 500,000 each and every loss
(v.) All other losses	US\$ 100,000 each and every loss

2.6 Notifications:

In accordance with the submittal requirements outlined above, SOIL CONTRACTOR shall deliver the original and two (2) copies of the certificate(s) of insurance or individual insurance policies required by this clause and all subsequent notices of cancellation, termination and alteration of such policies to:

PURCHASER: Sabine Pass LNG, L.P.  
Address: 717 Texas Avenue  
Suite 3100  
Houston, TX 77002  
Attention: Ed Lehotsky  
Telephone: 713-265-0206  
Facsimile: 713-659-5459

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With copy to: Sabine Pass LNG, L.P.  
Address: 717 Texas Avenue  
Suite 3100  
Houston, TX 77002  
Attention: David Mitchell  
Telephone: 832-204-2293  
Facsimile: 713-659-5459

### **SC-3 DRAWINGS AND SPECIFICATIONS**

- 3.1 PURCHASER will furnish design criteria specifications and prints of engineering design criteria drawings for each part of the Work under this Soil Contract. Such drawings will give information required for the preparation of detail design and/or shop detail drawings by SOIL CONTRACTOR.
- 3.2 SOIL CONTRACTOR shall, immediately upon receipt thereof, check all specifications and drawings furnished and shall promptly notify PURCHASER of any omissions or discrepancies in such specifications or drawings.
- 3.3 SOIL CONTRACTOR shall perform the Work only in accordance with "Issued for Construction" (IFC) drawings and any subsequent revisions thereto submitted by SOIL CONTRACTOR and reviewed by PURCHASER in accordance with the Special Condition 7, titled SOIL CONTRACTOR-FURNISHED DRAWINGS, DATA AND SAMPLES.
- 3.4 Two (2) copies of such specifications and one (1) full size reproducible copy and three (3) full size prints of such drawings will be furnished to SOIL CONTRACTOR without charge. Any additional copies of such specifications and drawings will, upon SOIL CONTRACTOR's request, be furnished to SOIL CONTRACTOR at actual cost.

### **SC-4 PURCHASER-FURNISHED UTILITIES AND FACILITIES**

#### **4.1 Utilities**

The utilities listed below will be furnished by PURCHASER without cost to SOIL CONTRACTOR, provided that all such utilities will be furnished at outlets existing on the Phase 2 Site and SOIL CONTRACTOR shall, at its expense, extend such utilities from said outlets to points of use and at completion of all the Work remove all materials and equipment used for such extensions.

- (1) telephone line cabling with drop at pole; and

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- (2) electrical power: for office and at lay down area.

4.2 Access, storage, and other areas (Refer to Exhibit "B" Appendix B-4).

The access, storage, parking, office areas and other items listed below will be furnished by PURCHASER. Such areas may be used by SOIL CONTRACTOR without charge, provided that any such use will be subject to written approval of PURCHASER, and provided further that Bechtel agrees to SOIL CONTRACTOR's use of such areas and that any such use does not hinder or interfere with any operations or construction activity or work being performed at the Phase 1 Site or on the Phase 1 Project.

- (1) construction dock, including offloading dock crane, with crane operator;
- (2) access roads in accordance with Exhibit "D";
- (3) construction storage laydown area;
- (4) parking lot; and
- (5) office trailer area.

**SC-5 PURCHASER-FURNISHED MATERIALS AND EQUIPMENT**

- 5.1 PURCHASER will furnish to SOIL CONTRACTOR, at PURCHASER's designated warehouse or Phase 2 Site storage area, the items listed below to be incorporated into or used in performance of the Work under this Soil Contract. Such items will be furnished, without cost to SOIL CONTRACTOR, provided that SOIL CONTRACTOR shall, at its expense, accept delivery thereof, load, unload, transport to points of use, and care for such items until final disposition thereof. At time of acceptance of any such item from PURCHASER, SOIL CONTRACTOR shall sign a receipt therefore. Signing of such receipt without reservation therein shall preclude any subsequent claim by SOIL CONTRACTOR that any such items were received from PURCHASER in a damaged condition or with shortages. If at any time after acceptance of any such item from PURCHASER any such item is damaged, lost, stolen or destroyed, such item shall be repaired or replaced at the expense of SOIL CONTRACTOR. Items required to be replaced may, at its option, be furnished by PURCHASER. Upon completion of all the Work under this Soil Contract, SOIL CONTRACTOR shall, at its expense, return all surplus and unused items to PURCHASER's designated warehouse or Phase 2 Site storage area.
- 5.2 PURCHASER will exert every reasonable effort to make delivery of such materials and equipment so as to avoid delay in the progress of the Work. However, should PURCHASER, for any reason, fail to make delivery of any such item and a delay results, SOIL CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES. SOIL CONTRACTOR shall take all appropriate action to mitigate the consequences of such delay.

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5.3 Materials to be furnished by PURCHASER:

As Stated In Exhibit "D."

**SC-6 PURCHASER PERMITS**

- 6.1 General Condition 8, titled PERMITS, notwithstanding, PURCHASER will without cost to SOIL CONTRACTOR, obtain or furnish the PURCHASER Permits; however, SOIL CONTRACTOR shall, as necessary, provide PURCHASER with assistance in obtaining such Permits. SOIL CONTRACTOR shall otherwise act in accordance with General Condition 8, titled PERMITS. All such PURCHASER Permits are available for examination at the office of PURCHASER during regular business hours.

**SC-7 SOIL CONTRACTOR-FURNISHED DRAWINGS, SPECIFICATIONS, DATA AND SAMPLES**

- 7.1 Review and permission to proceed by PURCHASER as stated in this Special Condition 7, titled SOIL CONTRACTOR-FURNISHED DRAWINGS, SPECIFICATIONS, DATA AND SAMPLES, does not constitute acceptance or approval of the materials and documents developed or selected by SOIL CONTRACTOR and any approval by PURCHASER shall only constitute permission to proceed and shall not relieve SOIL CONTRACTOR from its obligations under the Soil Contract nor shall such approval create any PURCHASER responsibility for the accuracy of such materials and documents. The drawings and specifications shall be based on the requirements of this Soil Contract, including the Scope of Work, drawings, specifications, applicable codes and standards and Applicable Law, and all drawings and specifications shall be signed and stamped, as required, by design professionals licensed in accordance with Applicable Law.
- 7.2 Those drawings and record drawings specified in this Soil Contract and prepared by SOIL CONTRACTOR or Subcontractor or Sub-subcontractor under this Soil Contract shall be prepared using computer aided design ("CAD"). SOIL CONTRACTOR shall provide drawings, including record drawings, in their native formats as set forth in Exhibit "D."
- 7.3 In accordance with the General Condition 41, titled RIGHT TO WORK PRODUCT, PURCHASER shall have the right to use all materials and documents developed by SOIL CONTRACTOR without any obligation of any kind to SOIL CONTRACTOR or its Subcontractors, Sub-subcontractors or licensor(s) for any purpose with respect to the Facility.
- 7.4 SOIL CONTRACTOR's design, drawings, specifications, samples, certificates and data shall be submitted as set forth below or in accordance with the Soil Contract "Drawings and Data Requirements" form(s) described in Exhibit "D."
- (1) Drawing Submittals
- (a) All drawings shall be submitted by and at the expense of SOIL CONTRACTOR before each design phase, fabrication, installation or further work performance is commenced, allowing at least thirty (30)



Days for review by PURCHASER unless otherwise shown on the Soil Contract Schedule.

- (b) All drawings submitted by SOIL CONTRACTOR shall be certified by SOIL CONTRACTOR to be correct, shall show that they are for the Phase 2 Project, and shall be furnished in accordance with the Soil Contract Drawings and Data Requirements form(s). PURCHASER will conduct a review of SOIL CONTRACTOR's drawings and a reproducible drawing marked with one of the following codes will be returned to SOIL CONTRACTOR within the thirty (30) Day period outlined above.

Code	Notation.
1	Work may proceed.
2	Revise and Resubmit. Work may proceed subject to resolution of indicated comments.
3	Revise and Resubmit. Work may not proceed.
4	Review not required. Work may proceed.

- (c) Although Work may proceed on receipt of a drawing with a Code 2 notation, SOIL CONTRACTOR must resolve the comments indicated, resubmit and obtain a Code 1 notation before release for further design development, equipment or material shipment, installation, or completion of the affected Work.
- (d) Drawings returned marked code 2 or 3 shall be resubmitted not later than fifteen (15) Days after transmittal by PURCHASER.
- (e) If PURCHASER does not issue any comments, proposed changes or written disapprovals within the applicable time period noted above, SOIL CONTRACTOR may proceed with the development of such drawings and any construction relating thereto, but PURCHASER's lack of comments or disapproval, if applicable, shall in no event constitute an approval of the matters received by PURCHASER.

(2) Design, Drawings and Specifications

- (a) SOIL CONTRACTOR shall prepare its design, drawings, and specifications using the technical documents of Exhibit "D" as a basis. Construction will not commence until the submittal and approval process under this SC-7.4 has occurred.

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- (b) SOIL CONTRACTOR shall complete its design in phases as indicated in the Soil Contract Schedule submitted in accordance with Special Condition 9, titled SOIL CONTRACT SCHEDULE. The information submitted for each phase of the design must contain sufficient detail on the other phases to permit comprehensive review of the proposed design.
  - (c) When required by PURCHASER, SOIL CONTRACTOR shall, without charge, provide qualified technical personnel to participate in on-site design reviews.
  - (d) Subject to this SC-7.4, PURCHASER will review the design as it is completed and shall transmit comments to SOIL CONTRACTOR. SOIL CONTRACTOR shall promptly resolve these comments and resubmit the documents. On resubmittal, SOIL CONTRACTOR shall direct specific attention, in writing, to revisions other than those proposed by PURCHASER on the previous submittal.
  - (e) When the drawings and specifications have been satisfactorily completed, SOIL CONTRACTOR shall carry out fabrication, manufacture or construction in accordance therewith and shall make no further changes therein except upon review by and written approval from PURCHASER.
  - (f) Design drawings shall be submitted as specified in SC-7.4 (1) above.
- (3) Construction Drawings
- (a) SOIL CONTRACTOR shall prepare complete construction drawings necessary to execute the Work and shall be fully responsible for the coordination of all elements of the detail design such as civil, architectural, structural, electrical, and mechanical, etc., so that full details are shown on its construction drawings to permit SOIL CONTRACTOR to order its equipment and materials and for its field forces to construct the facilities covered in the Soil Contract. SOIL CONTRACTOR shall also provide design calculations when requested.
  - (b) For the purpose of this clause, construction drawings shall include those prepared for the construction of permanent facilities as well as temporary structures such as temporary bulkheads, excavation support, ground water control systems, and for such other temporary work as may be required for construction.
  - (c) Construction drawings shall be submitted as specified in SC-7.4 (1) above.
- (4) Shop Drawings
- (a) Shop drawings shall be complete and detailed. For the purpose of this clause, shop drawings shall include but not be limited to detail design; detail, fabrication, assembly, erection and setting drawings; schedule

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drawings; manufacturer's scale drawings; wiring and control diagrams; cuts or entire catalogs, pamphlets, and descriptive literature; and performance and test data.

- (b) Shop drawings shall be checked and coordinated by SOIL CONTRACTOR with the work of all disciplines involved before they are submitted to PURCHASER, and SOIL CONTRACTOR's approval seal shall provide evidence of such checking and coordination.
- (c) Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing number clearly indicated. If reference drawing numbers are used, the review data of such drawings shall be included. Drawings shall indicate design dimensions, maximum and minimum allowable operating tolerances on all major wear fits, i.e., rotating, reciprocating or intermittent sliding fits between shafts or stems and seals, guides and pivot pins. The sequence of submission of all drawings shall be such that all information is available for reviewing each drawing when it is received.
- (d) Shop drawings shall be submitted as specified in SC-7.4(1) above.

(5) Samples

- (a) Where samples are required, they shall be submitted by and at the expense of SOIL CONTRACTOR. Such submittals shall be made not less than thirty (30) Days prior to the time that the materials represented by such samples are needed for incorporation into the Work. Samples shall be subject to review and materials represented by such samples shall not be manufactured, delivered to the Phase 2 Site or incorporated into the Work without such review.
- (b) Each sample shall bear a label identifying this Soil Contract and showing SOIL CONTRACTOR's name, Phase 2 Project name, name of the item, manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing number, technical specification section and paragraph number, all as applicable.
- (c) Samples that have been reviewed, may, at PURCHASER's option, be returned to SOIL CONTRACTOR for incorporation into the Work.

(6) Certificates and Data

- (a) Where certificates are required, four (4) copies of each such certificate shall be submitted by and at the expense of SOIL CONTRACTOR. Such submittal shall be made not less than thirty (30) Days prior to the time that the materials represented by such certificates are needed for incorporation into the Work. Certificates shall be subject to review and material

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represented by such certificates shall not be fabricated, delivered to the Phase 2 Site or incorporated into the Work without such review.

- (b) Certificates shall clearly identify the material being certified and shall include but not be limited to providing the following information: SOIL CONTRACTOR's name, Phase 2 Project name, reference to this Soil Contract, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section and paragraph number, all as applicable.
  - (c) All other data shall be submitted as required by the Soil Contract Documents.
- (7) As-Built Drawings and Specifications
- (a) Drawings:
    - (a.1) Progress As-Built. During construction, SOIL CONTRACTOR shall keep a marked-up-to-date set of as-built blueline drawings on the Phase 2 Site as an accurate record of all deviations between Work as shown and Work as installed. These drawings shall be available to PURCHASER and Management Contractor for inspection at any time during regular business hours.
    - (a.2) Final As-Built. SOIL CONTRACTOR shall at its expense and not later than thirty (30) Days after Tank S-105 Substantial Completion or Substantial Completion BOP, whichever is later, furnish to PURCHASER a complete set of marked-up as-built reproducible drawings with "AS-BUILT" clearly printed on each sheet. SOIL CONTRACTOR shall accurately and neatly transfer all deviations from progress as-builts to final as-builts. As-built drawings shall be provided where specified and as required to reflect as-built conditions.
  - (b) Specifications:
    - (b.1) Progress As-Built. During construction, SOIL CONTRACTOR shall keep a marked-up-to-date set of as-built specifications on the Phase 2 Site annotated to clearly indicate all substitutions that are incorporated into the Work. Where selection of more than one product is specified, annotation shall show which product was installed. These specifications shall be available to PURCHASER and Management Contractor for inspection at any time during regular business hours.
    - (b.2) Final As-Built. SOIL CONTRACTOR shall at its expense and not later than thirty (30) Days after Tank S-105 Substantial Completion or Substantial Completion BOP, whichever is later,

furnish to PURCHASER a complete set of marked-up as-built specifications with "AS-BUILT" clearly printed on the cover. SOIL CONTRACTOR shall accurately and neatly transfer all annotations from progress as-builts to final as-builts.

(c) Endorsement:

SOIL CONTRACTOR shall sign each final as-built drawing and the cover of the as-built specifications and shall note thereon that the recording of deviations and annotations is complete and accurate.

**SC-8 SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK**

- 8.1 The Work shall be performed on a turnkey basis and shall include all of the Work required to achieve Tank S-104 Substantial Completion, Tank S-105 Substantial Completion, Substantial Completion BOP and Final Completion in accordance with the requirements of this Soil Contract. SOIL CONTRACTOR shall perform the Work in accordance with GECP, Applicable Law, applicable codes and standards, and all other terms and provisions of this Soil Contract. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as necessary in accordance with GECP, Applicable Law, applicable codes and standards, and all other terms and provisions of this Soil Contract, excluding only those items which PURCHASER has specifically agreed to provide under the terms of this Soil Contract. Without limiting the generality of the foregoing, the Work is more specifically described below and in Exhibit "D."
- 8.2 SOIL CONTRACTOR shall not commence performance of the Work (other than any Work under a LNTP) until PURCHASER issues the full Notice to Proceed (NTP) authorizing the same pursuant to the terms and conditions of this Soil Contract. Upon SOIL CONTRACTOR's receipt of the NTP, SOIL CONTRACTOR shall promptly commence with the performance of the Work.
- 8.3 SOIL CONTRACTOR shall complete the Work under the Soil Contract to meet the following Soil Contract Milestone Dates:

<u>Soil Contract Milestone</u>	<u>Soil Contract Milestone Date</u>
Tank S-104 Substantial Completion	February 15, 2009
Tank S-105 Substantial Completion	April 30, 2009
Final Completion	June 30, 2009

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- 8.4 The Soil Contract Milestone Dates are dependent upon SOIL CONTRACTOR being released to begin closing the Phase 2 Tank containment dikes no later than September 1, 2008. If PURCHASER does not release SOIL CONTRACTOR to begin this Work by such date, SOIL CONTRACTOR shall be entitled to seek relief pursuant to General Condition 32, titled CHANGES.
- 8.5 PURCHASER shall not issue an NTP until PURCHASER has furnished to SOIL CONTRACTOR reasonable documentation that demonstrates that PURCHASER (i) has sufficient funds to fulfill its payment obligations under this Soil Contract, or (ii) has obtained financing from one or more Lenders to fulfill its payment obligations hereunder, and provided evidence of the execution of the credit agreement with respect to such financing.
- 8.6 SOIL CONTRACTOR shall give PURCHASER full information in advance as to its plans for performing each part of the Work. If at any time, SOIL CONTRACTOR's actual progress is inadequate to meet the requirements of this Soil Contract, PURCHASER may notify SOIL CONTRACTOR to provide a plan necessary to improve its progress. If, within a reasonable period as determined by PURCHASER, SOIL CONTRACTOR does not improve performance to meet the Soil Contract Milestone Dates set forth above, PURCHASER may require an increase in SOIL CONTRACTOR's labor force, the number of shifts, overtime operations, additional days of work per week, expedited shipment(s) of equipment and materials, and an increase in the amount of construction plant and equipment, all without additional cost to PURCHASER. Neither such notice nor PURCHASER's failure to issue such notice shall relieve SOIL CONTRACTOR of its obligation to achieve the quality of work and rate of progress required by this Soil Contract.
- 8.7 Noncompliance with PURCHASER's instructions shall be grounds for PURCHASER's determination that SOIL CONTRACTOR is not prosecuting the Work with such diligence as will assure completion within the times specified. Upon such determination, PURCHASER may terminate this Soil Contract pursuant to General Condition 45, titled TERMINATION FOR DEFAULT.
- 8.8 Prior to issuing a NTP, PURCHASER may authorize SOIL CONTRACTOR to perform a portion of the Work under a limited notice to proceed ("LNTP"). The Parties shall agree upon the scope of Work to be performed under the LNTP. Any amounts paid under the LNTP for performance of any portion of the Work shall be based on Unit Prices as set forth in Special Condition 14, titled MEASUREMENT FOR PAYMENT.

#### **SC-9 SOIL CONTRACT SCHEDULE**

- 9.1 Within sixty (60) Days after Notice to Proceed, SOIL CONTRACTOR shall submit to PURCHASER for its written approval a Level III Schedule, which once approved by PURCHASER shall be the "Soil Contract Schedule." The schedule shall consist of a precedence network diagram using the critical path method (CPM) to show each individual essential activity in sequence to meet the Soil Contract Milestone Dates. The diagram shall show durations and dependencies including off-Site activities such as

- design, fabrication of equipment, procurement, delivery of materials, and items to be furnished by PURCHASER. It shall show total float and free-float times. Float shall not be considered to be for the exclusive benefit of either PURCHASER or SOIL CONTRACTOR. Extensions of time for performance required under other Soil Contract clauses shall be made only to the extent that equitable time adjustments for affected activities exceed the total float available along their paths.
- 9.2 SOIL CONTRACTOR shall utilize Primavera software to produce schedules and shall adhere to the work breakdown structure, activity code structure and calendars utilized by PURCHASER.
- 9.3 The activity listing shall show the following information for each activity on the diagram: Identification by node number; Description of the task or event; Duration; Personnel by craft; Equipment; earliest start and finish dates and latest start and finish dates.
- 9.4 In addition SOIL CONTRACTOR shall submit a complementary and detailed narrative description of its plan for performing the Work. The narrative description shall detail the equipment and personnel requirements by craft to complete a resource loaded schedule.
- 9.5 SOIL CONTRACTOR shall promptly inform PURCHASER of any proposed change in the Soil Contract Schedule and narrative and shall furnish PURCHASER with a revised Soil Contract Schedule and narrative within ten (10) Days after approval by PURCHASER of such change. The Soil Contract Schedule and narrative shall be kept up to date, taking into account the actual Work progress and shall be revised, if necessary, every thirty (30) Days. The revised Soil Contract Schedule and narrative shall, as determined by PURCHASER, be sufficient to meet the requirements for completion of any separable part and all of the Work as set forth in this Soil Contract.
- 9.6 During the performance of the Work, SOIL CONTRACTOR shall submit to PURCHASER periodic reports on the actual progress. Such progress reports shall include the following:
1. Monthly A copy of the Soil Contract Schedule showing actual progress to date for the major parts of the Work, as compared to planned progress;
  2. Monthly SOIL CONTRACTOR will submit a summary of actual hours expended performing the Work. Jobhours will be categorized by non-manual and manual and will be utilized to publish safety statistics. Manual are craft labor including foremen (e.g. pipe fitters, welders, electricians, laborers, carpenters, ironworkers) whereas non-manual are non-craft labor (e.g. field engineers, superintendents, safety representatives, accountants);
  3. Monthly A jobhour comparison by craft of actual versus planned staffing;
  4. Weekly A three-week look-ahead personnel forecast by craft. Variation from approved schedules and plans shall be noted and rationalized;

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5. Weekly A rolling four-week schedule showing one week actual progress and a three-week look-ahead forecast. Variation from approved schedules and plans shall be noted and rationalized;
  6. Weekly A weekly report of quantities installed versus total quantities on items of the Work selected by PURCHASER;
  7. Weekly A weekly report of labor productivity comparing actual versus planned jobhours on items of the Work selected by PURCHASER. Variation from approved schedules and plans shall be noted and rationalized; and
  8. Daily A daily force report listing all personnel by craft and work assignment; and equipment utilized in the Work.
  - 9.7 Schedules and reports shall be furnished in hardcopy and/or native electronic files as specified by PURCHASER.

#### **SC-10 TEMPORARY ACCESS AND HAUL ROADS**

- 10.1 SOIL CONTRACTOR shall, at its expense, construct and maintain temporary access and haul roads, except as provided in Special Condition 4, titled PURCHASER-FURNISHED UTILITIES AND FACILITIES, as may be necessary for the proper performance of this Soil Contract. SOIL CONTRACTOR shall submit a layout of all proposed roads prior to road construction. The layout shall show widths of roads, direction of traffic, curves, grades and related information in sufficient detail for review by PURCHASER. Roads constructed on PURCHASER's land or rights-of-way shall be subject to PURCHASER's approval.
- 10.2 ACCESS TO PHASE 2 SITE
  - (1) SOIL CONTRACTOR shall coordinate its Work on and access to and from the Phase 2 Site to ensure that SOIL CONTRACTOR does not interfere with the construction or operation of the Phase 1 Facility, the remainder of the Phase 2 Facility, or any of PURCHASER's other contractors at the Phase 1 and Phase Facilities. SOIL CONTRACTOR agrees to coordinate the performance of the Work with PURCHASER's other contractors or subcontractors performing work at the Phase 2 Site so as not to materially interfere with any of PURCHASER'S other contractors or subcontractors performing work at the Phase 2 Site. SOIL CONTRACTOR shall not access any portion of the Site, the Phase 1 Site or portions of the Phase 2 Site not necessary for its Work, without express written permission from PURCHASER, if such access would interfere with or hinder the construction or operation of the Phase 1 Facility or the remainder of the Phase 2 Facility. During the performance of the Work or SOIL CONTRACTOR's other obligations under this Soil Contract, if an unforeseen situation arises that could potentially interfere with the construction or operation of the Phase 1 Facility, SOIL CONTRACTOR shall provide to PURCHASER, as soon as possible but no later than seven (7) Days prior to the time that SOIL CONTRACTOR intends to perform such Work, a written plan listing the potentially interfering Work and



proposing in detail how such Work will be performed to avoid interference with the construction or operation of the Phase 1 Facility. Prior to performing such Work, PURCHASER and SOIL CONTRACTOR shall mutually agree upon a plan, including an applicable schedule for performance, for SOIL CONTRACTOR to execute such Work. If the unforeseen situation was not caused by SOIL CONTRACTOR and was not an item for which SOIL CONTRACTOR assumed responsibility, and SOIL CONTRACTOR's compliance with this SC-10.2(1) causes a change in the Work affecting the cost or the Soil Contract Schedule, SOIL CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.

#### SC-11 SAFETY, HEALTH AND SECURITY REQUIREMENTS

11.1 In the development and implementation of its Safety and Health Plan (S&H Plan) and performance of the Work, SOIL CONTRACTOR shall conform and comply with safety and health standards issued by PURCHASER or Management Contractor, which shall be substantially similar to those for the Phase 1 Project, and with any subsequent safety and health standards issued by PURCHASER or Management Contractor, including any such standards issued in Operating Plant Procedures.

11.2 SOIL CONTRACTOR shall not, without prior written approval of PURCHASER, subcontract with any entity whose safety ratings for the previous year exceed the following:

Interstate EMR:	1.0
State EMR:	1.0
LWDC:	2.5
OSHA Recordable:	3.5

11.3 In performance of the Work under this Soil Contract, SOIL CONTRACTOR shall comply with the Security Plan prepared and implemented for the Phase 1 Project, with modifications as necessary made for the Phase 2 Project. The modified plan shall include:

- (1) Controlled access to office, warehouse, material and equipment sites.
- (2) Physical security of office, warehouse, material and equipment sites, to include periodic security checks of all work areas assigned to SOIL CONTRACTOR.
- (3) Control of material and equipment packaging, transportation, and delivery to the Phase 2 Site.

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- (4) Accountability procedures for storage, requisition and issue of material and equipment.
  - (5) Personnel security to include, but not limited to, compliance with Project work rules (access, badging, prohibited activities and items, etc.).
  - (6) Communications security to include, but not limited to, use of radios, radio finders, beacons, etc.
  - (7) Compliance with the Project emergency response plan, submitted to FERC, to include, but not limited to, emergency notification lists, personnel accountability procedures, etc. The project emergency response plan may be updated or supplemented after the Effective Date from time to time, including when PURCHASER issues Operating Plant Procedures, and SOIL CONTRACTOR agrees to comply with any such updates and supplements. If SOIL CONTRACTOR's compliance with any such updates causes a change in the Work affecting the cost or the Soil Contract Schedule, SOIL CONTRACTOR shall be entitled to seek relief in accordance with General Condition 32, titled CHANGES.
  - (8) Compliance with all Phase 1 and Phase 2 Project security programs and the coordination measures, with PURCHASER and others on the Phase 2 Site, established for that purpose.
  - (9) Prompt reporting of incidents of loss, theft or vandalism to PURCHASER, subsequently detailed and provided in writing.

SOIL CONTRACTOR's Security Plan shall be added as an appendix to its S&H Plan.

#### **SC-12 EXPLOSIVES**

- 12.1 Explosives shall be transported to the Phase 2 Site only when required to perform the Work under this Soil Contract and with prior notice to and written approval of PURCHASER. SOIL CONTRACTOR shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work. SOIL CONTRACTOR shall employ competent and qualified personnel for the use of explosives and, notwithstanding any other provision in the Soil Contract to the contrary, shall assume full responsibilities for the cost of any incidental or consequential damages caused by the improper use of explosives. Residual surplus explosives shall be promptly removed from the Phase 2 Site and properly disposed of by SOIL CONTRACTOR.

#### **SC-13 LETTER OF CREDIT**

- 13.1 At SOIL CONTRACTOR's receipt of Notice to Proceed, SOIL CONTRACTOR shall furnish an irrevocable standby letter of credit, in the amount Two Million Eight Hundred Fifty Thousand US Dollars (US\$2,850,000), naming PURCHASER as a beneficiary ("Letter of Credit"), substantially in the form attached hereto as Exhibit "B," Appendix

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B-6. PURCHASER shall reimburse SOIL CONTRACTOR for the actual net cost of the Letter of Credit, without any markup for profit, overhead or otherwise.

- 13.2 The Letter of Credit must be issued by a bank acceptable to PURCHASER, and such Letter of Credit shall remain in effect until PURCHASER issues a Final Completion Certificate. If the estimated cost of the Work performed by SOIL CONTRACTOR increases by more than ten percent (10%) of the estimate set forth in Exhibit C, and upon a written request from PURCHASER, SOIL CONTRACTOR agrees to increase the amount of the Letter of Credit to ten percent (10%) of the new estimated cost of the Work. The actual, net cost of such increase in the value of the Letter of Credit shall be reimbursed by PURCHASER.

#### **SC-14 MEASUREMENT FOR PAYMENT**

- 14.1 Payment to SOIL CONTRACTOR shall be measured on the basis of unit prices. To establish a basis for payment, Exhibit "C," Forms A-1, A-2, A-3 and A-4 set forth the unit prices ("Unit Prices") for the various categories of Work to be performed by SOIL CONTRACTOR and for certain additional labor and equipment that may be required to perform the Work. The Unit Prices include all costs and charges for performance of the Work on a unit basis, including those costs and charges for labor, supervision, materials, supplies, equipment, transportation, tools, taxes, services, overhead and profit. SOIL CONTRACTOR shall not be entitled to any percentage fee or markup, for overhead, profit or otherwise, on the Unit Prices. Furthermore, SOIL CONTRACTOR agrees that quantities of Work on the Phase 2 Project are subject to variation and that the Unit Prices are not based on any expected or maximum or minimum quantities of Work on the Phase 2 Project. SOIL CONTRACTOR shall not be entitled to any adjustment of the Unit Prices based on any claim or assertion that the actual quantities of Work were greater or less than those expected by SOIL CONTRACTOR or the Parties.
- 14.2 For the purposes of making funds available for payment under this Soil Contract, SOIL CONTRACTOR shall provide estimates of anticipated quantities of Work, broken down by the categories of the Unit Prices, as reasonably requested by Management Contractor and as required in Exhibit "E."
- 14.3 By the second (2nd) Day of each calendar month, SOIL CONTRACTOR shall submit to PURCHASER a written statement ("Monthly Quantity Statement"), supported by information and documentation required under this Soil Contract, with a list of the actual net quantities of Work performed by SOIL CONTRACTOR during the immediately preceding calendar month for each category of Unit Prices set forth in Exhibit C. SOIL CONTRACTOR shall not include in such list any quantities that were not complete at the end of the immediately preceding calendar month.
- 14.4 SOIL CONTRACTOR shall make all measurements and surveys necessary for determining all quantities of Work to be paid under this Soil Contract, and such measurements shall be in the units and according to any procedures set forth in Exhibit C, and SOIL CONTRACTOR shall make such other measurements and computations as are reasonably requested by PURCHASER. Copies of field notes, computations, receipts,

delivery records and other records made by SOIL CONTRACTOR for the purpose of determining quantities shall be furnished to PURCHASER upon request. SOIL CONTRACTOR shall notify PURCHASER prior to the time such measurements or surveys are made. PURCHASER, at its sole discretion, may witness and verify such measurements and surveys. The dividing limits, lines or planes between adjacent items or classes of excavation, concrete, or other types of work where not definitely indicated on the drawings or in the specifications shall be as determined by PURCHASER.

#### **SC-15 INVOICING AND PAYMENT**

- 15.1 Upon the issuance of the Notice to Proceed by PURCHASER and receipt by PURCHASER of an Invoice, PURCHASER shall make an initial payment to SOIL CONTRACTOR in the amount of Two Million Eight Hundred Fifty Thousand US Dollars (US\$2,850,000).
- 15.2 Based on the and in conjunction with the Monthly Quantity Statement, SOIL CONTRACTOR shall submit an invoice ("Invoice") by the second (2nd) Day of each calendar month for the actual net quantities of Work completed through the end of the previous calendar month.
- 15.3 SOIL CONTRACTOR shall certify in each Invoice that there are no known outstanding mechanic's or materialmen's liens, and that all due and payable bills have been paid or are included in the Invoice.
- 15.4 As a condition of payment, each Invoice received by PURCHASER prior to Tank S-105 Substantial Completion or Substantial Completion BOP, whichever is later, shall be accompanied by a fully executed (i) Interim Conditional Lien Waiver from SOIL CONTRACTOR in the form of Exhibit "B" Appendix B-2 Form B-2-1 for all Work performed through the date of the Invoice for which payment is requested and (ii) Interim Unconditional Lien Waiver from SOIL CONTRACTOR in the form of Exhibit "B" Appendix B-2 Form B-2-2 for all Work performed through the date of the last Invoice submitted by SOIL CONTRACTOR. In addition, as a condition of payment, SOIL CONTRACTOR shall also provide (i) fully executed Interim Conditional Lien Waivers in the form of Exhibit "B" Appendix B-2 Form B-2-3 from each Major Subcontractor whose invoice is received by SOIL CONTRACTOR in the calendar month covered by SOIL CONTRACTOR's Invoice (with each such Interim Conditional Lien Waiver covering all Work performed by each such Major Subcontractor through the date of such Major Subcontractor's invoice), together with fully executed Interim Unconditional Lien Waivers in the form set forth in Exhibit "B" Appendix B-2 Form B-2-4 from each Major Subcontractor for all Work performed by such Major Subcontractor through the date of each such Major Subcontractor's preceding invoice; (ii) fully executed Interim Conditional Lien Waivers in the form of Exhibit "B" Appendix B-2 Form B-2-3 from each Major Sub-subcontractor whose invoice is received by SOIL CONTRACTOR in the calendar month covered by SOIL CONTRACTOR's Invoice (with each such Interim Conditional Lien Waiver covering all Work performed by each such Major Sub-subcontractor through the date of such Major Sub-subcontractor's invoice), together with fully executed Interim Unconditional Lien Waivers from each Major Sub-subcontractor

in the form set forth in Exhibit "B" Appendix B-2 Form B-2-4 for all Work performed by such Major Sub-subcontractor through the date of each such Major Sub-subcontractor's preceding invoice; provided that if SOIL CONTRACTOR fails to provide to PURCHASER an Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver from a Major Subcontractor or Major Sub-subcontractor as required, PURCHASER's right to withhold payment for the failure to provide any such Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver shall be limited to the amount that should have been reflected in such Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver.

- 15.5 SOIL CONTRACTOR hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by SOIL CONTRACTOR against any or all of the Work, the Facility or the Site to any liens granted in favor of Lender, whether such lien in favor of Lender is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. SOIL CONTRACTOR agrees to comply with reasonable requests of PURCHASER for supporting documentation required by Lender in connection with such subordination, including any necessary lien subordination agreements. Nothing in this SC-15.5 shall be construed as a limitation on or waiver by SOIL CONTRACTOR of any of its rights under Applicable Law to file a lien or claim or otherwise encumber the Facility as security for any undisputed payments owed to it by PURCHASER hereunder which are past due; provided that such lien, claim or encumbrance shall be subordinate to any liens granted in favor of Lenders.
- 15.6 Within thirty (30) Days after receipt of a correct Invoice, PURCHASER will pay SOIL CONTRACTOR ninety percent (90%) of the approved Invoice amount, including the quantities approved by PURCHASER, retaining the balance ("Retainage"). Subject to the terms of the Soil Contract (including the right to withhold payment for Defective Work), seventy-five percent (75%) of the Retainage shall be paid to SOIL CONTRACTOR upon SOIL CONTRACTOR's completion of all Work except for closure of the Phase 2 Tank containment dikes and related puchlist Work, and the remaining Retainage shall be paid to SOIL CONTRACTOR upon Final Completion.
- 15.7 Amounts otherwise payable under this Soil Contract may be withheld, in whole or in part, if:
- (1) SOIL CONTRACTOR is in default of any Soil Contract condition including, but not limited to, the schedule, quality assurance and health and safety requirements; or
  - (2) SOIL CONTRACTOR has not submitted:
    - (a) The Soil Contract Schedule, including any revisions or updates, as required by Special Condition 9, titled "SOIL CONTRACT SCHEDULE";

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- (b) Proper insurance certificates, or not provided proper coverage or proof thereof;
  - (c) The Letter of Credit; and
  - (d) Interim Lien Waivers from SOIL CONTRACTOR and Major Subcontractors and Sub-subcontractors.
- (3) Adjustments are due from previous overpayment or audit results.
- 15.8 PURCHASER will make payments of such amounts withheld in accordance with SC-15.7 above if SOIL CONTRACTOR cures all defaults in the performance of this Soil Contract.
- 15.9 If claims filed against SOIL CONTRACTOR connected with performance under this Soil Contract, for which PURCHASER may be held liable if unpaid (e.g., unpaid withholding and back Taxes), are not promptly removed by SOIL CONTRACTOR within seven (7) Days after receipt of written notice from PURCHASER to do so, PURCHASER may remove such claims and deduct all costs in connection with such removal from withheld payments or other monies due, or which may become due, to SOIL CONTRACTOR. If the amount of such withheld payment or other monies due SOIL CONTRACTOR under this Soil Contract is insufficient to meet such costs, or if any claim against SOIL CONTRACTOR is discharged by PURCHASER after final payment is made, SOIL CONTRACTOR and its surety or sureties, if any, shall promptly pay PURCHASER all costs incurred thereby regardless of when such claim arose or whether such claim imposed a lien upon the Work, the Facility or the Site.
- 15.10 Upon receipt by SOIL CONTRACTOR of PURCHASER's Final Completion Certificate, SOIL CONTRACTOR shall prepare and submit its final invoice ("Final Invoice"), together with (i) a statement summarizing and reconciling all previous Invoices, payments and Change Orders; (ii) an affidavit that all payrolls, Taxes, bills for material and equipment, and any other indebtedness connected with the Work for which SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors are liable (excluding Corrective Work) have been paid; (iii) fully executed Final Conditional Lien and Claim Waiver from SOIL CONTRACTOR in the form of Exhibit "B" Appendix B-2 Form B-2-5, (iv) fully executed Final Conditional Lien and Claim Waivers from each Major Subcontractor and each Major Sub-subcontractor in the form set forth in Exhibit "B" Appendix B-2 Form B-2-7. No later than thirty (30) Days after receipt by PURCHASER of such Final Invoice and all required and reasonably requested documentation, PURCHASER shall, subject to its rights to withhold payment under this Soil Contract, pay SOIL CONTRACTOR the balance of the Soil Contract Price (including any remaining Retainage), provided that SOIL CONTRACTOR provides to PURCHASER at or before the time of such payment the following: (i) fully executed Final Unconditional Lien and Claim Waiver from SOIL CONTRACTOR in the form of Exhibit "B" Appendix B-2 Form B-2-6 and (ii) fully executed Final Unconditional Lien and Claim Waivers from each Major Subcontractor and each Major Sub-subcontractor in the form of

Exhibit "B" Appendix B-2 Form B-2-8. Notwithstanding the above, PURCHASER shall not withhold from final payment an amount greater than the amount(s) in dispute.

15.11 After issuance of the Final Completion Certificate, PURCHASER shall give notice to the issuing bank to release the Letter of Credit.

15.12 No payments of Invoices or portions thereof shall at any time constitute approval or acceptance of any Work under this Soil Contract, nor be considered a waiver by PURCHASER of any of the terms of this Soil Contract. Title to all equipment and materials which has vested in PURCHASER pursuant to General Condition 34, titled "TITLE AND RISK OF LOSS," however, shall not be part of SOIL CONTRACTOR's property or estate, unless otherwise specified by Applicable Law, in the event SOIL CONTRACTOR is adjudged bankrupt or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of SOIL CONTRACTOR's insolvency, or if all or any portion of this Soil Contract is terminated.

15.13 SOIL CONTRACTOR shall submit all Invoices in original and two (2) copies to:

PURCHASER:	Sabine Pass LNG, L.P.	with copy to:	Sabine Pass LNG, L.P.
Address:	717 Texas Avenue Suite 3100 Houston, TX 77002	Address:	717 Texas Avenue Suite 3100 Houston, TX 77002
Attention:	Accounts Payable	Attention:	Ed Lehotsky
Facsimile:	713-659-5459	Telephone:	713-265-0206
		Facsimile:	713-659-5459

and with copy to:	Sabine Pass LNG, L.P.
Address:	717 Texas Avenue Suite 3100 Houston, TX 77002
Attention:	David Mitchell
Telephone:	832-204-2293
Facsimile:	713-659-5459

15.14 Any amounts due but not paid hereunder, any amounts withheld from SOIL CONTRACTOR but later finally determined in accordance with the dispute resolution procedure set forth in GC-33 and SC-31 to have been improperly withheld, or any

amounts collected by PURCHASER on the Letter of Credit but later finally determined in accordance with the dispute resolution procedure set forth in GC-33 and SC-31 to have been improperly collected, shall bear interest at the lesser of (i) an annual rate equal to the prime rate set from time to time by Citibank, N.A., or (ii) the maximum rate permitted under Applicable Law.

**SC-16 [NOT USED]**

**SC-17 [NOT USED]**

**SC-18 QUALITY SURVEILLANCE INSPECTIONS**

PURCHASER designated equipment or materials furnished by SOIL CONTRACTOR shall not be deemed accepted until inspected by PURCHASER or PURCHASER's representative in accordance with PURCHASER's requirements for quality, which shall be substantially similar to those for the Phase 1 Project.

**SC-19 [NOT USED]**

**SC-20 LIQUIDATED DAMAGES**

- 20.1 The Parties hereby agree that the damages which PURCHASER will sustain as a result of SOIL CONTRACTOR's failure to meet the Soil Contract Milestone Dates are difficult or impossible to determine with certainty and, therefore, have in good faith estimated as fair compensation the liquidated damages as set forth below. If SOIL CONTRACTOR fails to perform the Work within the time frames specified in the Soil Contract for the Soil Contract Milestone Dates listed below, or any extensions evidenced by a Change Order or duly executed Soil Contract amendment, SOIL CONTRACTOR shall pay to PURCHASER as fixed, agreed and liquidated damages for each Day of delay the sum(s) specified below, which amounts shall be independently calculated for each Soil Contract Milestone indicated:

**LIQUIDATED DAMAGES**

<b>MILESTONE DESCRIPTION</b>	<b>LIQUIDATED DAMAGE AMOUNT PER DAY</b>
Tank S-104 Substantial Completion	— US\$21,000 per Day for each Day after the Soil Contract Milestone Date for Tank S-104 Substantial Completion
Tank S-105 Substantial Completion	— US\$21,000 per Day for each Day after the Soil Contract Milestone Date for Tank S-105 Substantial Completion
Final Completion	— US\$21,000 per Day for each Day after the Soil Contract Milestone Date for Final Completion



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- 20.2 The application of liquidated damages shall not effect a change in the Soil Contract Milestone Dates or relieve SOIL CONTRACTOR of its obligation to improve its progress, pursuant to Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK, and to achieve or mitigate the failure to achieve any Soil Contract Milestone Dates.
- 20.3 Payments of liquidated damages shall become due immediately upon failure to achieve a Soil Contract Milestone Date. PURCHASER shall be entitled to withhold from payments due, offset against other obligations, deduct from Retainage, and draw down on Letter(s) of Credit any and all liquidated damages due from SOIL CONTRACTOR.
- 20.4 The cumulative total of all liquidated damages will not exceed Three Million US Dollars (US\$3,000,000).
- 20.5 Except as set out in Special Condition 8, titled SCOPE, COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK, where PURCHASER may require SOIL CONTRACTOR to accelerate to recover lost schedule and General Condition 45, titled TERMINATION FOR DEFAULT, SOIL CONTRACTOR shall have no further liability to PURCHASER for delay as a result of the liquidated damages provided within this SC-20.

#### **SC-21 APPLICABLE LAW**

This Soil Contract shall be governed by and interpreted under the laws of the State of Texas (without giving effect to the principles thereof relating to conflicts of law). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Soil Contract and shall be disclaimed in and excluded from any Subcontracts entered into by SOIL CONTRACTOR in connection with the Work or the Project.

#### **SC-22 CONSTRUCTION MANAGEMENT**

- 22.1 PURCHASER will engage a Management Contractor to manage the Work under this Soil Contract. SOIL CONTRACTOR agrees to submit all Invoices to Management Contractor, with copy to PURCHASER; provide all notices, including without limitation notices related to changes to the Work, delays and Force Majeure, to Management Contractor, with copy to PURCHASER; treat, comply with, and abide by all communications, directives, notices and instructions from Management Contractor as if coming directly from PURCHASER under this Soil Contract. Notwithstanding anything to the contrary, Management Contractor shall not have the authority to amend this Soil Contract (by Change Order or otherwise) or otherwise contractually bind PURCHASER without PURCHASER's express consent or ratification in writing. Management Contractor shall have the authority to act as PURCHASER's authorized representative as set forth in Exhibit E.
- 22.2 SOIL CONTRACTOR shall submit to Management Contractor copies of all documents, invoices, information, forms, policies, procedures, plans, test information, test data, and other data and information submitted or required to be submitted to PURCHASER under

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this Soil Contract, including all Exhibits and Appendices hereto. The address for Management Contractor for purposes of this Section is:

Bechtel Corporation  
3000 Post Oak Boulevard  
Houston, TX 77056  
Facsimile: 713-235-1610

PURCHASER shall specify the Person at Management Contractor to whom items should be addressed.

**SC-23 RELEASE OF CONSEQUENTIAL DAMAGES**

- 23.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN ANY OTHER PROVISIONS OF THIS SOIL CONTRACT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL LOSS OR DAMAGES RESULTING FROM OR ARISING OUT OF THIS SOIL CONTRACT. THE PARTIES AGREE THAT THIS SC-23 SHALL NOT APPLY TO ANY LIQUIDATED DAMAGES PAYABLE UNDER SC-20, IF ANY.

**SC-24 NOT USED**

**SC-25 MEASUREMENT SYSTEM**

- 25.1 SOIL CONTRACTOR shall use the "English Standard" system of measurement for all designs, specifications, drawings, plans and Work except as otherwise directed in writing by PURCHASER.

**SC-26 NOT USED**

**SC-27 KEY PERSONNEL**

- 27.1 SOIL CONTRACTOR shall not reassign or remove the Key Personnel listed below without the prior written authorization of PURCHASER.

<u>Name</u>	<u>Title/Position</u>
Tommy Breaux	Project Manager
Larry Weathers	Superintendent
Steve Oller	Site Safety Officer

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- 27.2 SOIL CONTRACTOR shall ensure that Key Personnel continue to perform the part of the Work assigned to them for as long as necessary to achieve the Soil Contract requirements. SOIL CONTRACTOR shall not remove any Key Personnel from the Work without prior written approval of PURCHASER. SOIL CONTRACTOR shall allow a minimum of twenty-one (21) Days notice of its desire to remove any Key Personnel from the Soil Contract Work.

**SC-28 LANGUAGE REQUIREMENTS**

- 28.1 The Soil Contract Documents and all notices, communications and submittals between the Parties pursuant to the implementation of this Soil Contract shall be in the English language, unless otherwise directed in writing by PURCHASER. All translation services, to include the physical presence of qualified translators in both office and field, necessary for written or oral communications with PURCHASER and all members of SOIL CONTRACTOR's work force or in the course of routine Phase 2 Site coordination of any nature, shall be provided by SOIL CONTRACTOR. SOIL CONTRACTOR warrants these services and their staffing shall fully meet the standards and requirements established by PURCHASER.

**SC-29 NOT USED**

**SC-30 DRUGS, ALCOHOL AND WEAPONS**

- 30.1 SOIL CONTRACTOR's personnel shall not bring onto the Phase 2 Site, or any other location where the provisions of this Soil Contract apply:
- (1) Any firearm of whatsoever nature, knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of PURCHASER is determined to be a potential weapon.
  - (2) Alcoholic beverages of any nature.
  - (3) Illegal or PURCHASER-prohibited non-prescription drugs of any nature without exception.
- 30.2 SOIL CONTRACTOR shall abide by and enforce the requirements of this clause to include the immediate removal from the Work under this Soil Contract of any employee who has violated the requirements of this clause or who PURCHASER, in its sole judgment, determines has violated the requirements of this clause.
- 30.3 SOIL CONTRACTOR shall be subject to the Phase 1 and Phase 2 Project's drug and alcohol policy, which shall be provided by PURCHASER or Management Contractor. Pre-employment drug and alcohol screening shall be required of all SOIL CONTRACTOR's employees. All SOIL CONTRACTOR's employees shall be subject to random drug and alcohol testing.

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**SC-31 ARBITRATION**

- 31.1 Any arbitration held under this Soil Contract shall be held in Houston, Texas, unless otherwise agreed by the Parties, shall be administered by the Dallas, Texas office of the American Arbitration Association ("AAA") and shall, except as otherwise modified by this SC-31, be governed by the AAA's Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Construction Disputes) (the "AAA Rules"). The number of arbitrators required for the arbitration hearing shall be determined in accordance with the AAA Rules. The arbitrator(s) shall determine the rights and obligations of the Parties according to the substantive law of the state of Texas, excluding its conflict of law principles, as would a court for the state of Texas; provided, however, the law applicable to the validity of the arbitration clause, the conduct of the arbitration, including resort to a court for provisional remedies, the enforcement of any award and any other question of arbitration law or procedure shall be the Federal Arbitration Act, 9 U.S.C.A. § 1, et seq. Issues concerning the arbitrability of a matter in dispute shall be decided by the arbitrator(s). The Parties shall be entitled to engage in reasonable discovery, including the right to production of relevant and material documents by the opposing Party and the right to take depositions reasonably limited in number, time and place; provided that in no event shall any Party be entitled to refuse to produce relevant and non-privileged documents or copies thereof requested by the other Party within the time limit set and to the extent required by order of the arbitrator(s). All disputes regarding discovery shall be promptly resolved by the arbitrator(s). This agreement to arbitrate is binding upon the Parties, SOIL CONTRACTOR's surety (if any) and the successors and permitted assigns of any of them. The Parties may join any other Person as an additional party to any arbitration conducted under this SC-31, provided that the party to be joined is or may be liable to either Party in connection with all or any part of any dispute between the Parties. The arbitration award shall be final and binding, in writing, signed by all arbitrators, and shall state the reasons upon which the award thereof is based. The Parties agree that judgment on the arbitration award may be entered by any court having jurisdiction thereof.

**SC-32 NOT USED****SC-33 NOT USED****SC-34 HAZARDOUS MATERIALS.**

- 34.1 SOIL CONTRACTOR shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Phase 2 Site and shall bear all responsibility and liability for such materials; provided, however, that SOIL CONTRACTOR may bring onto the Phase 2 Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, applicable codes and standards, and SOIL CONTRACTOR's S&H Plan, and SOIL CONTRACTOR shall remain responsible and liable for all such Hazardous Materials.

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- 34.2 If SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Phase 2 Site, and SOIL CONTRACTOR or any Subcontractor or Sub-subcontractor knows or suspects that such material is Hazardous Material, SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors shall promptly stop Work in the affected area and notify PURCHASER. If under such circumstances SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify, SOIL CONTRACTOR shall be responsible and liable to PURCHASER for all damages, costs, losses and expenses to the extent attributable to such failure.
- 34.3 PURCHASER shall remove, transport and, as appropriate, dispose of any Hazardous Materials discovered or released at the Phase 2 Site, including any Hazardous Materials brought on the Phase 2 Site or generated by Third Parties, but excluding any Hazardous Materials brought on to the Phase 2 Site or generated by SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors.

#### **SC-35 HAZARDOUS SUBSTANCE AWARENESS**

- 35.1 The nature of the Work to be performed under this Soil Contract involves inherent risks. SOIL CONTRACTOR agrees that it will inform its officers, employees, agents, Subcontractors and Sub-subcontractors, and any other parties which may come into contact with any Hazardous Materials as a result of SOIL CONTRACTOR's activities hereunder of the nature of such materials and any health or environmental risks associated with such materials.
- 35.2 SOIL CONTRACTOR warrants that SOIL CONTRACTOR's personnel and personnel of its Subcontractors and Sub-subcontractors, assigned to or regularly entering the Phase 2 Site, have or will receive training as specified in OSHA 29 CFR 1910.120 (e) in relation to this Soil Contract prior to their assignment to field duty. Supervisory personnel of any tier will also receive, as a minimum, eight hours additional specialized training in the management of Hazardous Material operations. Such training shall be at SOIL CONTRACTOR's expense. SOIL CONTRACTOR personnel assigned to the Phase 2 Site may also be required to attend specialized training classes specific to the Phase 2 Site as presented by PURCHASER.

#### **SC-36 HAZARDOUS SUBSTANCE REGULATIONS**

- 36.1 SOIL CONTRACTOR shall ensure that all Hazardous Materials with which it deals receive safe and proper handling. SOIL CONTRACTOR confirms that it is aware of and will comply with the requirements of the Comprehensive Environmental Response, Compensation, Liability Act, 42 U.S.C. 9601-9675 (CERCLA) as amended; the Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992 (RCRA) as amended; the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601-2671; the Clean Water Act (CWA), 33 U.S.C. 1251-1387; Title 40 of the Code of Federal Regulations; the Department of Transportation (DOT) regulations applicable to Hazardous Materials, and any other Applicable Law related to working with or near Hazardous Materials.

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**SC-37 NOT USED****SC-38 LABORATORY ANALYSES**

- 38.1 When chemical, radiological or physical analyses of Hazardous Materials, which are the responsibility of SOIL CONTRACTOR, are required for their disposal, treatment, or recycling, and such analyses are not listed below as PURCHASER provided, SOIL CONTRACTOR shall cause such analyses to be performed by an appropriately qualified laboratory. SOIL CONTRACTOR shall identify the analyses to be performed and submit the name, qualifications, and procedures of the proposed laboratory(ies) to PURCHASER for review prior to performing any analyses. Such analyses shall be at SOIL CONTRACTOR's expense. The following laboratory analyses will be provided by PURCHASER:

NONE.

**SC-39 ON-SITE HANDLING AND DISPOSAL OF HAZARDOUS MATERIAL**

- 39.1 If the Work under this Soil Contract includes any intrusive site or structural drilling, boring, coring or sampling, debris may be produced as a result of these efforts. This debris could include solids or liquids drawn from site wells for sampling purposes. All such debris shall be treated by SOIL CONTRACTOR as if it were Hazardous Materials regulated under the federal Resource and Conservation Recovery Act of 1976, 42 U.S.C. 6901-6992 (RCRA) as amended, or any more stringent applicable regulations, unless and until SOIL CONTRACTOR has been able to confirm, to the satisfaction of PURCHASER and the appropriate regulatory agencies that the wastes are not regulated as Hazardous Materials.

**SC-40 OFF-SITE TRANSPORTATION AND DISPOSAL OF HAZARDOUS MATERIALS**

- 40.1 SOIL CONTRACTOR shall have no authority or responsibility for the off-site transportation, storage, treatment or disposal of contaminated or potentially contaminated waste materials of any kind, which are directly or indirectly generated at the Phase 2 Site. However, SOIL CONTRACTOR shall handle all materials at the Phase 2 Site with due care, in accordance with work or Phase 2 Site plans and the requirements of this Soil Contract.

**SC-41 SEC FILINGS**

- 41.1 SOIL CONTRACTOR acknowledges and agrees that PURCHASER or its Affiliates shall be required, from time to time, to make disclosures and press releases and applicable filings with the SEC (including a copy of this Soil Contract) in accordance with applicable securities laws, that PURCHASER believes in good faith are required by Applicable Law or the rules of any stock exchange. If any such disclosure, press release or filing includes any reference to SOIL CONTRACTOR, then PURCHASER shall provide as much notice as is practicable to SOIL CONTRACTOR to provide it with an opportunity to comment; provided, however, the final determination shall remain with PURCHASER.

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**SC-42 SOIL CONTRACTOR REGISTRATION**

- 42.1 Non-resident SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors must register for sales and use Tax purposes with the Louisiana Department of Revenue and the Cameron Parish Police Jury. Prior to commencing Work non-resident SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors shall post a bond in an amount required under Applicable Law. Upon satisfactory completion of the Tax registration and surety bond requirements, SOIL CONTRACTOR shall obtain from the Secretary a certificate of compliance and shall provide a copy to PURCHASER.

**SC-43 LOUISIANA SALES AND USE TAXES**

- 43.1 PURCHASER shall participate in the Louisiana Enterprise Zone Program, which shall allow PURCHASER to receive a rebate directly from the State of Louisiana Department of Revenue of the rebatable portion of Louisiana state, parish and local-option sales and use tax ("Louisiana Sales and Use Tax") incurred and paid by SOIL CONTRACTOR and its Subcontractors or Sub-subcontractors in connection with performance of the Work. SOIL CONTRACTOR shall provide to PURCHASER, for itself and its Subcontractors and Sub-subcontractors, all documentation as may be reasonably requested by PURCHASER and available to SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors in order to allow PURCHASER to secure such rebate. Such documentation shall include invoice documentation supporting all Louisiana Sales and Use Taxes paid by SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors for the purchase of material, equipment and leased or rented construction equipment, in addition to consumables purchased and delivered within the state of Louisiana. Such documentation shall be provided to PURCHASER with each Invoice and shall clearly identify (i) the item of material or equipment purchased, (ii) the amount of Louisiana Sales and Use Tax paid; and (iii) all information (including the Phase 2 Project name and the Phase 2 Project address, which shall be documented on SOIL CONTRACTOR's Invoice) to properly establish that the material and equipment was used in connection with or incorporated into the Phase 2 Facility. If the equipment was taken from SOIL CONTRACTOR's or a Subcontractor's or Sub-subcontractor's inventory, subject to SC-43.4, SOIL CONTRACTOR shall provide PURCHASER with an invoice, journal vouchers or other similar documentation as may be required to evidence that the applicable Louisiana Sales and Use Tax was paid by SOIL CONTRACTOR or its Subcontractor or Sub-subcontractor on such inventory. PURCHASER's tax consultant shall assist PURCHASER to secure all available rebates of Louisiana Sales and Use Taxes and is authorized to request and receive information directly from SOIL CONTRACTOR and Subcontractors and Sub-subcontractors on behalf of PURCHASER. No information shall be provided to PURCHASER's tax consultant until such tax consultant has signed a confidentiality agreement with SOIL CONTRACTOR and any applicable Subcontractor or Sub-subcontractor with terms customary in the audit industry for audits of this kind.

- 43.2 PURCHASER shall provide SOIL CONTRACTOR with any state and local manufacturing, pollution control or other applicable sales and use Tax exemption certificates that PURCHASER has received and which are valid under Applicable Law, including the governing law specified in SC-21. SOIL CONTRACTOR will reasonably cooperate with PURCHASER to minimize any and all Taxes relating to the Project.
- 43.3 If SOIL CONTRACTOR or any of its Subcontractors or Sub-subcontractors incurs any sales and use Taxes on any items of material and equipment for which PURCHASER has previously provided SOIL CONTRACTOR with a valid applicable sales and use Tax exemption certificate, SOIL CONTRACTOR shall be responsible for the payment of such sales and use Taxes without reimbursement by PURCHASER.
- 43.4 PURCHASER shall have the right to have its third party auditors audit the Books and Records of SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors to confirm that all Louisiana Sales and Use Taxes paid by SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors in connection with the Work are properly owed under Applicable Law; provided, however, if the determination of the proper amount of such Louisiana Sales and Use Tax assessed on any one or more items of material and or equipment is dependent upon knowing the actual cost incurred by SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors for such item of equipment or material and the compensation of such item of equipment or material is included in the Soil Contract Price or in any lump sum Change Order, that portion of the audit devoted to reviewing the actual cost incurred by SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors for such item of material and/or equipment shall be performed by PURCHASER's tax consultant, which shall be retained by PURCHASER at PURCHASER's sole expense. The Parties agree that (unless the amount of Louisiana Sales and Use Tax properly payable for an item of material and equipment is subject to litigation or arbitration) such tax consultant shall not disclose to PURCHASER the actual cost incurred by SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors for any item of material and equipment included in the Soil Contract Price, but the Parties agree that such tax consultant may report to PURCHASER the proper Louisiana Sales and Use Taxes properly payable under Applicable Law. No access to Books and Records shall be granted to PURCHASER's third party auditors until such auditors have signed a confidentiality agreement with SOIL CONTRACTOR or any applicable Subcontractor or Sub-subcontractor with terms customary in the audit industry for audits of this kind.
- 43.5 Included in the Soil Contract Price is an allowance of Two Hundred Thousand US Dollars (US\$200,000) for Louisiana Sales and Use Taxes arising in connection with the Work ("Louisiana Sales and Use Tax Allowance"). If the actual amount of Louisiana Sales and Use Taxes paid by SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors in connection with the Work is less than the Louisiana Sales and Use Tax Allowance, PURCHASER shall be entitled to a Change Order reducing the Soil Contract Price by such difference. If the actual amount of Louisiana Sales and Use Taxes paid by SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors in connection with the Work is greater than the Louisiana Sales and Use Tax Allowance, SOIL CONTRACTOR shall be entitled to a Change Order increasing the Soil Contract Price by such difference; provided that SOIL CONTRACTOR shall reasonably cooperate with



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PURCHASER to minimize any and all Louisiana Sales and Use Taxes arising in connection with the Work, and provided further that in the event that PURCHASER discovers that it has paid SOIL CONTRACTOR for any improperly assessed Louisiana Sales and Use Taxes, SOIL CONTRACTOR shall reasonably assist PURCHASER in the recovery of such refunds and overpayments.

#### **SC-44 LIMITATION OF LIABILITY**

- 44.1 Notwithstanding any other provisions of this Soil Contract to the contrary, SOIL CONTRACTOR shall not be liable to PURCHASER under this Soil Contract or under any cause of action related to the subject matter of this Soil Contract, whether in contract, warranty, tort (including negligence), strict liability, products liability, professional liability, contribution or any other cause of action, in excess of a cumulative aggregate amount of Seven Million Five Hundred Thousand US Dollars (US\$7,500,000), and PURCHASER shall release SOIL CONTRACTOR from any liability in excess thereof; provided that, notwithstanding the foregoing, the limitation of liability set forth in this Special Condition shall not (i) apply in the event of SOIL CONTRACTOR's intentional misconduct (including intentional and wrongful refusal to perform the Work, intentional and wrongful delay in performing the Work, or wrongful abandonment of the Work) or gross negligence; (ii) apply to SOIL CONTRACTOR's obligations under General Condition 34.3, 39.1, 39.2, 39.4 or 40.1; or (iii) include the proceeds paid under any insurance policy that SOIL CONTRACTOR or its Subcontractors or Sub-subcontractors are required to obtain pursuant to this Soil Contract, or Subcontract or Sub-subcontract, as the case may be. In no event shall the limitation of liability set forth in this Special Condition be in any way deemed to limit SOIL CONTRACTOR's obligation to perform all Work required to achieve Tank S-104 Substantial Completion, Tank S-105 Substantial Completion, and Substantial Completion BOP.

**Appendix B-1 to Soil Contract**

**CERTIFICATE OF INSURANCE**

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW.

[Insert Name and Address of  
Contractor's Agent or Broker]

**COMPANIES AFFORDING COVERAGE**

COMPANY LETTER A  
COMPANY LETTER B  
COMPANY LETTER C  
COMPANY LETTER D  
COMPANY LETTER E

INSURED

[Insert Contractor Name and Address]

**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS MAY HAVE BEEN REDUCED BY PAID CLAIMS.

**CO  
LT  
R**

TYPE OF INSURANCE				POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS IN THOUSANDS
<b>GENERAL LIABILITY</b>							
x	COMMERCIAL GENERAL LIABILITY						GENERAL AGGREGATE \$
	CLAIMS MADE	x	OCCUR				PRODUCTS-COMP/OPS AGG. \$
	OWNER'S & CONTRACTOR'S PROT.						PERSONAL & ADV. INJURY \$
							EACH OCCURRENCE \$
							FIRE DAMAGE (Any one fire) \$
							MEDICAL EXPENSE (Any one person) \$
							COMBINED SINGLE LIMIT \$ 25
<b>AUTOMOBILE LIABILITY</b>							
x	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	SCHEDULED AUTOS						PROPERTY DAMAGE \$
	HIRED AUTOS						EACH OCCURRENCE \$
	NON-OWNED AUTOS						AGGREGATE \$
	GARAGE LIABILITY						STATUTORY LIMITS
x	AUTOMOBILE CONTRACTUAL LIABILITY						(EACH ACCIDENT) \$250
<b>EXCESS LIABILITY</b>							(DISEASE-POLICY LIMIT) \$250
	UMBRELLA FORM						(DISEASE-EACH EMPLOYEE) \$250
	OTHER THAN UMBRELLA FORM						
<b>WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY</b>							
<b>OTHER</b>							
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS							

Reference: **TBD** as Additional Insureds. Insurer's waiver of subrogation in favor of Additional Insureds applies.

CERTIFICATE HOLDER

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED, TERMINATED OR MATERIALLY ALTERED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL 30 CALENDAR DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER.

**TBD**

AUTHORIZED REPRESENTATIVE

Attention: Site Manager

02-CSCIH.INC/05May00

**APPENDIX B-2**

**LIEN AND CLAIM WAIVER FORMS**

Appendix B-2  
Soil Contract

**FORM B-2-1**

**SOIL CONTRACTOR'S INTERIM CONDITIONAL LIEN WAIVER**

(To be executed by Remedial Construction Services, L.P.  
with each Invoice other than the Final Invoice)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Remedial Construction Services, L.P. ("Soil Contractor"), has been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the soil improvement at the project known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_ (amount in Invoice submitted with this Soil Contractor's Interim Conditional Lien Waiver), Soil Contractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Project and the Property that Soil Contractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Soil Contractor (including, without limitation, any Subcontractor or Sub-subcontractor) in connection with the Phase 2 Project through the date of \_\_\_\_\_, 20\_\_ (date of the Invoice submitted with this Soil Contractor's Interim Conditional Lien Waiver) and reserving those rights, privileges and liens, if any, that Soil Contractor might have in respect of any amounts withheld by Owner from payment on account of work, materials, equipment, services and/or labor furnished by or on behalf of Soil Contractor to or on account of Owner for the Phase 2 Project. Other exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, Soil Contractor shall be deemed not to have reserved any claim.)

Soil Contractor expressly represents and warrants that all employees, laborers, materialmen, Subcontractors, Sub-subcontractors and subconsultants employed by Soil Contractor in connection with the Phase 2 Project have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Soil Contractor's last prior Invoice). Exceptions are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
(if no exception entry or "none" is entered above, all such payments have been made)

This Soil Contractor's Interim Conditional Lien Waiver is freely and voluntarily given and Soil Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Soil Contractor's Interim Conditional Lien Waiver, that it is fully informed with respect to the legal effect of this Soil Contractor's Interim Conditional Lien Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Soil Contractor's Interim Conditional Lien Waiver in return for the payment recited above.

This Soil Contractor's Interim Conditional Lien Waiver has been executed by its duly authorized representative(s).

**FOR REMEDIAL CONSTRUCTION SERVICES, L.P.:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-2-2**

**SOIL CONTRACTOR'S INTERIM UNCONDITIONAL LIEN WAIVER**

(To be executed by Remedial Construction Services, L.P.  
with each Invoice other than the Final Invoice)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Remedial Construction Services, L.P. ("Soil Contractor"), has been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the soil improvement at the project known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Soil Contractor hereby waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Project and the Property that Soil Contractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Soil Contractor (including, without limitation, any Subcontractor or Sub-subcontractor) in connection with the Phase 2 Project through the date of \_\_\_\_\_, 20\_\_ (date of Soil Contractor's last prior Invoice).

Soil Contractor expressly represents and warrants that all employees, laborers, materialmen, Subcontractors, Sub-subcontractors and subconsultants employed by Soil Contractor in connection with the Phase 2 Project have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Soil Contractor's last prior Invoice).

This Soil Contractor's Interim Unconditional Lien Waiver is freely and voluntarily given and Soil Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Soil Contractor's Interim Unconditional Lien Waiver, that it is fully informed with respect to the legal effect of this Soil Contractor's Interim Unconditional Lien Waiver.

This Soil Contractor's Interim Unconditional Lien Waiver has been executed by its duly authorized representative(s).

**FOR REMEDIAL CONSTRUCTION SERVICES, L.P.:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-2-3**

**SUBCONTRACTOR'S INTERIM CONDITIONAL LIEN WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractors  
with each invoice other than the invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor") who has, under an agreement with Remedial Construction Services, L.P. ("Soil Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_ (amount in invoice submitted with this Subcontractor's Interim Conditional Lien Waiver), Subcontractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Project and the Property that Subcontractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Subcontractor (including, without limitation, any sub-subcontractor) in connection with the Phase 2 Project through the date of \_\_\_\_\_, 20\_\_\_\_ (date of the invoice submitted with this Subcontractor's Interim Conditional Lien Waiver) and reserving those rights, privileges and liens, if any, that Subcontractor might have in respect of any amounts withheld by Soil Contractor from payment on account of work, materials, equipment, services and/or labor furnished by or on behalf of Subcontractor to or on account of Soil Contractor for the Phase 2 Project. Other exceptions are as follows:

\_\_\_\_\_  
(if no exception entry or "none" is entered above, Subcontractor shall be deemed not to have reserved any claim.)

Subcontractor expressly represents and warrants that all employees, laborers, materialmen, Sub-subcontractors and subconsultants employed by Subcontractor in connection with the Phase 2 Project have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_\_\_ (date of Subcontractor's last prior invoice). Exceptions are as follows:

\_\_\_\_\_  
(if no exception entry or "none" is entered above, all such payments have been made)

This Subcontractor's Interim Conditional Lien Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Interim Conditional Lien Waiver, that it is fully informed with respect to the legal effect of this Subcontractor's Interim Conditional Lien Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Subcontractor's Interim Conditional Lien Waiver in return for the payment recited above.

This Subcontractor's Interim Conditional Lien Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR :**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-2-4**

**SUBCONTRACTOR'S INTERIM UNCONDITIONAL LIEN WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractors  
with each invoice other than the invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor") who has, under an agreement with Remedial Construction Services, L.P. ("Soil Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Subcontractor hereby waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Project and the Property that Subcontractor has or may have arising out of the performance or provision of the work, materials, equipment, services or labor or on behalf of Subcontractor (including, without limitation, any Sub-subcontractor) in connection with the Phase 2 Project through the date of \_\_\_\_\_, 20\_\_ (date of the last invoice submitted by Subcontractor).

Subcontractor expressly represents and warrants that all employees, laborers, materialmen, Sub-subcontractors and subconsultants employed by Subcontractor in connection with the Phase 2 Project have been paid for all work, materials, equipment, services, labor and any other items performed or provided through \_\_\_\_\_, 20\_\_ (date of Subcontractor's last prior invoice).

This Subcontractor's Interim Unconditional Lien Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Interim Unconditional Lien Waiver, and that it is fully informed with respect to the legal effect of this Subcontractor's Interim Unconditional Lien Waiver.

This Subcontractor's Interim Unconditional Lien Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-2-5**

**SOIL CONTRACTOR'S FINAL CONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Remedial Construction Services, L.P.  
with the Final Invoice)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Remedial Construction Services, L.P. ("Soil Contractor"), has been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the soil improvement at the project known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_ (amount in Final Invoice submitted with this Soil Contractor's Final Conditional Lien and Claim Waiver), Soil Contractor waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Project and the Property, and all claims, demands, actions, causes of actions or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise that Soil Contractor has or may have had against Owner arising out of the Agreement or the Phase 2 Project, whether or not known to Soil Contractor at the time of the execution of this Soil Contractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the Agreement, including, without limitation, Warranties and correction of Defective Work, Soil Contractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out the Agreement or the Phase 2 Project have been fully satisfied.

This Soil Contractor's Final Conditional Lien and Claim Waiver is freely and voluntarily given, and Soil Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Soil Contractor's Final Conditional Lien and Claim Waiver, that it is fully informed with respect to the legal effect of this Soil Contractor's Final Conditional Lien and Claim Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Soil Contractor's Final Conditional Lien and Claim Waiver in return for the payment recited above.

This Soil Contractor's Final Conditional Lien and Claim Waiver has been executed by its duly authorized representative(s).

**FOR REMEDIAL CONSTRUCTION SERVICES, L.P.:**

Applicable to Invoice(s) No. ALL

Signed: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**FORM B-2-6**

**SOIL CONTRACTOR'S FINAL UNCONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Remedial Construction Services, L.P.  
as a condition of them receiving final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, Remedial Construction Services, L.P. ("Soil Contractor"), has been engaged under contract ("Agreement") with Sabine Pass LNG, L.P. ("Owner"), for the soil improvement at the project known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Soil Contractor has been paid in full for all work, materials, equipment, services and/or labor furnished in connection with the Phase 2 Project, and Soil Contractor hereby waives, relinquishes, remits and releases any and all privileges, liens or claims of privileges or liens against the Phase 2 Project and the Property, and all claims, demands, actions, causes of actions or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise that Soil Contractor has or may have had against Owner arising out of the Agreement or the Phase 2 Project, whether or not known to Soil Contractor at the time of the execution of this Soil Contractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the Agreement, including, without limitation, Warranties and correction of Defective Work, Soil Contractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the Agreement or the Phase 2 Project have been fully satisfied, including without limitation payment to Subcontractors and employees and payment of Taxes.

This Soil Contractor's Final Unconditional Lien and Claim Waiver is freely and voluntarily given, and Soil Contractor acknowledges and represents that it has fully reviewed the terms and conditions of this Soil Contractor's Final Unconditional Lien and Claim Waiver and that it is fully informed with respect to the legal effect of this Soil Contractor's Final Unconditional Lien and Claim Waiver. Soil Contractor understands, agrees and acknowledges that, upon the execution of this document, this document waives rights unconditionally and is fully enforceable to extinguish all claims of Soil Contractor as of the date of execution of this document by Soil Contractor.

This Soil Contractor's Interim Unconditional Lien Waiver has been executed by its duly authorized representative(s).

**FOR REMEDIAL CONSTRUCTION SERVICES, L.P.:**

Applicable to Invoice(s) No. \_\_\_\_

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-2-7**

**SUBCONTRACTOR'S FINAL CONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractors with their invoice for final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor"), has, under an agreement with Remedial Construction Services, L.P. ("Soil Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Upon receipt of the sum of U.S.\$ \_\_\_\_\_, Subcontractor waives, relinquishes, remits and releases any and all privileges and liens or claims of privileges or liens against the Phase 2 Project and the Property, and all claims, demands, actions, causes of action or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise against Cheniere Energy, Inc. or Sabine Pass LNG, L.P. (collectively "Owner") or Soil Contractor, which Subcontractor has, may have had or may have in the future arising out of the agreement between Subcontractor and Contractor or the Phase 2 Project, whether or not known to Subcontractor at the time of the execution of this Subcontractor's Final Conditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the agreement between Subcontractor and Soil Contractor, including warranties and correction of defective work, Subcontractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the agreement between Soil Contractor and Subcontractor, the Phase 2 Project or sub-subcontracts have been fully satisfied.

This Subcontractor's Final Conditional Lien and Claim Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Final Conditional Lien and Claim Waiver, that it is fully informed with respect to the legal effect of this Subcontractor's Final Conditional Lien and Claim Waiver, and that it has voluntarily chosen to accept the terms and conditions of this Subcontractor's Final Conditional Lien and Claim Waiver in return for the payment recited above. Subcontractor understands, agrees and acknowledges that, upon payment, this document waives rights and is fully enforceable to extinguish all claims of Subcontractor as of the date of execution of this document by Subcontractor.

This Subcontractor's Final Conditional Lien and Claim Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR:**

Applicable to Invoice No(s). ALL (If all, print "all")

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM B-2-8**

**SUBCONTRACTOR'S FINAL UNCONDITIONAL LIEN AND CLAIM WAIVER**

(To be executed by Major Subcontractors and Major Sub-subcontractor as a condition of them receiving final payment)

STATE OF \_\_\_\_\_  
COUNTY/PARISH OF \_\_\_\_\_

The undersigned, \_\_\_\_\_ ("Subcontractor"), has, under an agreement with Remedial Construction Services, L.P. ("Soil Contractor"), furnished certain materials, equipment, services, and/or labor for the facility known as the Sabine Pass LNG Terminal Project (Phase 2) (the "Phase 2 Project"), which is located in Cameron Parish, State of Louisiana, and is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Property").

Subcontractor has been paid in full for all work, materials, equipment, services and/or labor furnished by or on behalf of Subcontractor to or on account of Soil Contractor for the Phase 2 Project, and Subcontractor hereby waives, relinquishes, remits and releases any and all privileges and liens or claims of privileges or liens against the Phase 2 Project and the Property, and all claims, demands, actions, causes of action or other rights at law, in contract, quantum meruit, unjust enrichment, tort, equity or otherwise against Cheniere Energy, Inc. or Sabine Pass LNG, L.P. (collectively "Owner") or Soil Contractor, which Subcontractor has, may have had or may have in the future arising out of the agreement between Subcontractor and Soil Contractor or the Phase 2 Project, whether or not known to Subcontractor at the time of the execution of this Subcontractor's Final Unconditional Lien and Claim Waiver.

Except for work and obligations that survive the termination or expiration of the agreement between Subcontractor and Soil Contractor, including warranties and correction of defective work, Subcontractor represents that all of its obligations, legal, equitable, or otherwise, relating to or arising out of the agreement between Soil Contractor and Subcontractor, the Phase 2 Project or sub-subcontracts have been fully satisfied, including, but not limited to payment to sub-subcontractors and employees of Subcontractor and payment of taxes.

This Subcontractor's Final Unconditional Lien and Claim Waiver is freely and voluntarily given and Subcontractor acknowledges and represents that it has fully reviewed the terms and conditions of this Subcontractor's Final Unconditional Lien and Claim Waiver, and that it is fully informed with respect to the legal effect of this Subcontractor's Final Unconditional Lien and Claim Waiver. Subcontractor understands, agrees and acknowledges that, upon execution of this document, this document waives rights unconditionally and is fully enforceable to extinguish all claims of Subcontractor as of the date of execution of this document by Subcontractor.

This Subcontractor's Final Unconditional Lien and Claim Waiver has been executed by its duly authorized representative.

**FOR SUBCONTRACTOR:**

Applicable to Invoice No(s). ALL

Signed: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX B-3 TO SOIL CONTRACT**  
**OWNER and CONTRACTOR Furnished Permits**

<b>PERMIT OR APPROVAL</b>	<b>REGULATORY REFERENCE</b>	<b>RESPONSIBLE AGENCY</b>	<b>AGENCY CONTACT INFORMATION</b>	<b>REGULATED ACTIVITY</b>	<b>TECHNICAL INFORMATION NEEDED FOR APPLICATION</b>	<b>DATE REQUIRED</b>	<b>COMMENTS</b>
Notice of Proposed Construction or Alteration-FAA Form 7460-1	14 CFR Part 77	Federal Aviation Administration (FAA)	Federal Aviation Administration, Southwest Regional Office-Air Traffic Airspace Branch, ASW-520,2601 Meachan Blvd., Fort Worth, TX 76137-4298 Phone: (817)222-5520	Construction or use of tall structures including cranes	Locations and dimensions of Tanks and any other significant structures	30 Days prior to the erection of the obstruction that exceeds 200 feet	An Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) is required if the Facility will have structures greater than 200 feet or will be located less than 20,000 ft from an airport. Although the Tanks are less than 200 feet tall, there are several public air strips in the vicinity; Therefore, it is advisable to notify FAA of the project so they can conduct an OE/AAA to determine if the Tanks will require any special marking or additional lighting.
Temporary emergency and non-emergency diesel powered electrical generators		Louisiana Department of Environmental Quality (LDEQ)		Operation and emissions of generator engine	Engine emissions based on manufacturer's data must not exceed LCEQ limits. Exhaust emission test must be performed within 60 days of initial operation.	As required to support Permit requirement	Exhaust emission testing and reporting required with 60 days of initial operation.

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Water Bottom Dredge Permit	LAC 76:X111.101	Louisiana Department of Wildlife and Fisheries (LOWF)	LDWF-Region V, 1213 N Lakeshore Dr., Lake Charles, LA 70601 Phone: (337)491-2580	Dredging of fill material, sand and gravel from state-owned water bottoms		Prior to the mobilization of dredge equipment	
Spill Prevention Plan		LDWF	Jim Hanifen, LDWF-Coastal Ecology Section, 2000 Quail Drive, Baton Rouge, LA 70898 Phone:(225)765-2379	Storage of petroleum products in coastal tidal areas.	LDWF can require that a plan to prevent spills from petroleum product storage tanks be submitted and approved. This is normally not required for small portable tanks used in construction work. However, the LDWF must be contacted to determine requirement for the specific Site and tank installation	On or before mobilization at Site	Contractor to determine if needed and inform Owner.
LDEQ hazardous waste stream notification		LDEQ		Generation of any amount of hazardous waste on the Site.	List of normal hazardous and class 1 wastes.	Not anticipated	If Owner has EPA ID number, Owner would provide notification to LDEQ.
Fire Protection		Johnsons Bayou Fire Department	Johnsons Bayou Fire Department 155 Berwick Road; Cameron, LA 70631 (337) 569-2119	Fire protection and mutual aid agreements		On or before mobilization of permitted structures are erected at the Site	It is not anticipated that these Permits will be required. Those that may apply pertain to occupied structures such as trailers.
Air permit		LDEQ		Concrete Batch Plant		On or before mobilization of the batch plant to the Site	
Occupancy Permit		Cameron Parish				On or before habitable structures are mobilized to the Site	

**APPENDIX B-3 TO SOIL CONTRACT**  
**OWNER and CONTRACTOR Furnished Permits**

<b><u>PERMIT OR APPROVAL</u></b>	<b><u>REGULATORY REFERENCE</u></b>	<b><u>RESPONSIBLE AGENCY</u></b>	<b><u>AGENCY CONTACT INFORMATION</u></b>	<b><u>REGULATED ACTIVITY</u></b>	<b><u>TECHNICAL INFORMATION NEEDED FOR APPLICATION</u></b>	<b><u>DATE REQUIRED</u></b>	<b><u>COMMENTS</u></b>
General Construction Permit		Cameron Parish Police Jury				As required to support permitted activities	
LPDES hydrostatic test wastewater discharge permit		LDEQ	Permits Section, LDEQ Water Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225)219-3110	Discharge of hydrostatic test wastewater to surface waters		Prior to discharge of hydrotest water	

**APPENDIX B-3 TO SOIL, CONTRACT**  
**OWNER and CONTRACTOR Furnished Permits**

<b><u>PERMIT OR APPROVAL</u></b>	<b><u>REGULATORY REFERENCE</u></b>	<b><u>RESPONSIBLE AGENCY</u></b>	<b><u>AGENCY CONTACT INFORMATION</u></b>	<b><u>REGULATED ACTIVITY</u></b>	<b><u>TECHNICAL INFORMATION NEEDED FOR APPLICATION</u></b>	<b><u>DATE REQUIRED</u></b>	<b><u>COMMENTS</u></b>
NGA Section 3 Application		U.S. Federal Energy Regulatory Commission (FERC)		LNG Facility	Environmental Resource Reports 1-13 submitted with FERC filing Environmental Information Request #1 Environmental Information Request #2 Environmental Information Response #3	NTP	
Section 10/404 jurisdictional determination	33 CFR 320 to 330	U.S. Army Corps of Engineers (USACOE)	Bruce Bennet, U.S. Army Corps of Engineers, 2000 Fort Point Road, Galveston, TX 77550 Phone: (409)766-6389	Construction activities in lakes, streams, wetlands	Consultation Request for jurisdictional determination Request for appeal to jurisdictional determination Revised wetland delineation report	NTP or as specified in FERC Authorization	

**APPENDIX B-3 TO SOIL CONTRACT**  
**OWNER and CONTRACTOR Furnished Permits**

<b><u>PERMIT OR APPROVAL</u></b>	<b><u>REGULATORY REFERENCE</u></b>	<b><u>RESPONSIBLE AGENCY</u></b>	<b><u>AGENCY CONTACT INFORMATION</u></b>	<b><u>REGULATED ACTIVITY</u></b>	<b><u>TECHNICAL INFORMATION NEEDED FOR APPLICATION</u></b>	<b><u>DATE REQUIRED</u></b>	<b><u>COMMENTS</u></b>
Section 10/404 Construction Permit	33CFR 320 to 330	U.S. Army Corps of Engineers (USACOE)	Bruce Bennet U.S. Army Corps of Engineers, 2000 Fort Point Road, Galveston, TX 77550 Phone: (409)766-6389	Construction activities in lakes, streams, wetlands	<ul style="list-style-type: none"> <li>• Design drawings for structures and shoreline protection</li> <li>• Description of overall project</li> <li>• Delineation of wetland areas</li> <li>• Revised permit-includes construction dock</li> <li>• Revised Block 22 and Step 10 of 16 pages</li> <li>• Revised Aquatic Resources Mitigation Plan</li> </ul>	NTP or as specified in FERC Authorization	
Clarification on Anchorage	33CFR 320 to 330	U.S. Army Corps of Engineers (USACOE)	Bruce Bennet, U.S. Army Corps of Engineers, 2000 Fort Point Road, Galveston, TX 77550 Phone: (409)766-6389	Possible encroachment on designated Anchorage Area	Description of Project area anchorage/consultation Request for concurrence	NTP or as specified in FERC Authorization	
Soil impacts coordination and seeding plan		Natural Resources Conservation Service	Charles Starkovich, Lake Charles Service Center, 1400 Gertsner Memorial Dr., Lake Charles, LA 70601		Consultation	NTP or as specified in FERC Authorization	



**APPENDIX B-3 TO SOIL CONTRACT**  
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<b>PERMIT OR APPROVAL</b>	<b>REGULATORY REFERENCE</b>	<b>RESPONSIBLE AGENCY</b>	<b>AGENCY CONTACT INFORMATION</b>	<b>REGULATED ACTIVITY</b>	<b>TECHNICAL INFORMATION NEEDED FOR APPLICATION</b>	<b>DATE REQUIRED</b>	<b>COMMENTS</b>
EFH	Magnuson/ Stevens Act	NOAA Fisheries	NOAA Fisheries: Baton Rouge Field Office, Kelly Shotts, c/o Louisiana State University, Military Science Building, Room 266, Baton Rouge, LA 70803-7535, (225) 389-0508		Consultation	NTP or as specified in FERC Authorization	
Federal Endangered Species Consultation	Magnuson/Stevens Act	NOAA Fisheries	NOAA Fisheries: Southeast Regional Office, Chuck Orvitz/ Eric Hawk, 9721 Executive Center Drive North, St. Petersburg, FL 33702		<ul style="list-style-type: none"> <li>• Consultation for Project</li> <li>• Dredged Material Placement Area Plan review</li> </ul>	NTP or as specified in FERC Authorization	
Dredged Material Placement Area Plan	Magnuson/Stevens Act	NOAA Fisheries	NOAA Fisheries: Baton Rouge Field Office, Kelly Shotts, c/o Louisiana State University, Military Science Building, Room 266, Baton Rouge, LA 70803-7535, (225) 389-0508		<ul style="list-style-type: none"> <li>• Consultation for EFH</li> <li>• Consultation letter re: construction dock and Aquatic Resources Mitigation Plan</li> </ul>	NTP or as specified in FERC Authorization	

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Federal Endangered Species Consultation	Section 7 of the Endangered Species Act (ESA)	U.S. Fish and Wildlife Service	Bridgett Firmin, USFWS, 646 Cajundome Blvd., Suite 400, Lafayette, LA 70506 Phone:(337) 291-3100	Impacts to listed threatened and endangered species	Consult with NOAA Fisheries for EFH and offshore T/E potential impacts, and consult with USACOE for wetlands	NTP or as specified in FERC Authorization	
Radio License		Federal Communications Commission				Mobilization to Site	
Tribal Groups Consultation	Section 106 of the National Historic Preservation Act	Bureau of Indian Affairs	Tom Parry, 1302 East Central Blvd., Anadarko, OK 73005		Consultation	NTP or as specified in FERC Authorization	
Construction within a floodplain		Federal Emergency Management, Region VI	David Helgel/Cartton Watts Federal Regional Center, 800 North Loop 288 Denton, TX 76209	Construction within a floodplain	consultation	NTP or as specified in FERC Authorization	
Navigation and Marine Safety issues associated with the LNG terminal ship traffic		United States Coast Guard	Caption Sharon Richey, USCG Commanding officer US Coast Guard Marine Safety Office 2875 Jimmy Johnson Blvd. Port Arthur, Tx 77640	Navigation and Marine Safety issues associated with the LNG terminal ship traffic	<ul style="list-style-type: none"> <li>• Consultation</li> <li>• Disabled Ships simulation memo</li> </ul>	NTP or as specified in FERC Authorization	

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New Source Review Preconstruction Permit (Prevention of Significant Deterioration and Non-Attainment Review)	LAC 33:111.509	Louisiana Department of Environmental Quality (LDEQ)	Tegan Treadaway, LDEQ Air Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225) 219-3082	Construction of major source of air pollution	<ul style="list-style-type: none"> <li>• Air pollution emissions and control equipment data</li> <li>• Locations and dimensions of major structures</li> <li>• Air quality impact modeling</li> <li>• BACT/LAER determinations</li> <li>• Identification of emission offsets for non-attainment areas</li> <li>• Addendum to air permit, officially added turbines to application</li> </ul>	NTP or as specified in FERC Authorization	
Non-attainment review for air permit		Texas Commission on Environmental Quality, Air Permits Division	Dale Beebe Farrow or James Red, P.O. Box 13087, Austin, TX 78711-3087		Non-attainment review for air permit consultation	NTP or as specified in FERC Authorization	
Surface Water Acquisition Permit (Greater than 10-acre feet)		Texas Commission on Environmental Quality	Water Rights Permitting Group - Attn: Kellye Rila (MC 160). 12100 Park 35 Circle, Austin Texas 78753		Information on source and quantities of surface water to be acquired in Texas state waters for hydrostation test water	NTP or as specified in FERC Authorization	
Groundwater Certification as a part of the air permit approval process		LDEQ	Environmental Technology Division, Travis Williams, Phone: (225) 219-3290	Air Permit	groundwater certification letter and package	NTP or as specified in FERC Authorization	

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Spill Prevention, Control and Countermeasure Plan (SPCC) for Operating Facility	40 CFR Part 112	LDEQ		Onsite storage of oil in quantities greater than threshold amounts	1. Oil storage inventory including maximum capacity 2. Description of measures to prevent an oil spill 3. Description of how personnel will respond to an oil spill	Prior to RFCD	
RCRA Small Quantity Hazardous Waste Generator Identification Number	40 CFR Part 261	LDEQ	Call DEQ, Jesse Chang 225-219-3071, or Tom Killeen 225-219-3097 to find out where to send this or if it is required.	Onsite presence of hazardous waste in quantities greater than threshold amounts	Expected hazardous waste accumulation	NTP or as specified in FERC Authorization	Required if hazardous waste will exceed the 100 kg/month threshold. Contractor to confirm quantity to determine if needed. Owner still gets generator ID number.
Water Quality Certification, Section 401 of CWA		LDEQ	Larry Wiesepape, Ph.D., LDEQ Water Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225) 219-3016	Triggered by application for a USACOE Section 404 Permit	<ul style="list-style-type: none"> <li>Submitted as a part of the CUP and IP</li> <li>Consultation for modified construction dock area and Aquatic Resources Mitigation Plan</li> </ul>	NTP or as specified in FERC Authorization	
LPDES sanitary wastewater discharge permit		LDEQ	Permits SEction, LDEQ Water Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225) 219-3112	Discharge of sanitary wastewater	<ul style="list-style-type: none"> <li>Water balance diagram</li> <li>Expected wastewater flows and characteristics</li> </ul>	NTP or as specified in FERC Authorization	

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LPDES Storm Water Multi-sector General Permit (combined facilities)/ industrial water discharge permit application form SCC-2		LDEQ	Yvonne Wingate, LDEQ Water Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225)219-3111	Storm water runoff	Must develop Storm Water Pollution Prevention Plan, including:- site description-pollution and erosion control measures- maintenance procedures	Prior to RFCD	
LPDES Storm Water Construction Permit Notice of Intent		LDEQ	Darlene Bernard, LDEQ Water Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225)219-3112	Storm water runoff	Notice of Intent	NTP or as specified in FERC Authorization	
LPDES Storm Water Construction Permit Notice of Termination		LDEQ	Darlene Bernard, LDEQ Water Permit Division, 7290 Bluebonnet, Baton Rouge, LA 70810 Phone:(225)219-3112	Storm water runoff	Notice of Termination	Prior to RFCD	
Dredged Material Placement Area Plan		LDEQ			Dredged Material Placement Area Plan review	NTP or as specified in FERC Authorization	

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State threatened and endangered species clearance	NEPA/FERC	Louisiana Department of Wildlife and Fisheries (LDWF) and U.S. Fish and Wildlife	Fred Dunham, LDWF, 2000 Quail Drive, Baton Rouge, La. 70808 Phone: (225) 765-2346	Assessment of site habitation by listed (threatened or endangered) species	<ul style="list-style-type: none"> <li>• Consultation</li> <li>• Dredged Material Placement Area Plan review</li> <li>• Warmwater Fisheries Time of Year Restrictions</li> <li>• Response from LDWF to CMD re: CUP P20040708</li> <li>• Consultation for approval of revised construction dock</li> </ul>	NTP or as specified in FERC Authorization	
Coastal Use Permit		Louisiana Department of Natural Resources (LDNR)	Rocky Hinds/Chris Davis, LDNR, 617 North Third Street, Baton Rouge, LA 70802-5428 Phone: (504)342-7591	Construction in coastal management zone	<ul style="list-style-type: none"> <li>• Solicitation of Views</li> <li>• Same as for USACOE permit, and additional information on CY of disturbance in all land types.</li> <li>• Revised permit application, includes construction dock</li> <li>• Revised Step 10 of 16 and Block 22</li> <li>• Revised Aquatic Resources Mitigation Plan</li> <li>• Summary report of subsurface investigation</li> </ul>	NTP or as specified in FERC Authorization	

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Beneficial Use Plan for Dredge Material		Louisiana Department of Natural Resources (LDNR)	Rocky Hinds/Chris Davis, LDNR, 617 North Third Street, Baton Rouge, LA 70802-5428 Phone:(504)342-7591	Dredge Material Placement	Dredged Material Placement Area Plan review	NTP or as specified in FERC Authorization	
Commercial Water Bottom Lease		Louisiana State Land Office	Synthia Marcelin, SLO, P.O. Box 44124, Baton Rouge, LA 70814-4124 Phone: (225) 342-0120		A commercial water bottom lease for the proposed Project will be required, including the construction dock area.	NTP or as specified in FERC Authorization	
Historic Preservation Approval-Section 106 Environmental Review (applies to entire site)		Louisiana Division of Historic Preservation (LDHP)	Pam Breaux-State Historic Preservation Officer (Rachel Watson/Duke Rivet-contact), Capital Annex Building 1051 North Third Street Baton Rouge, LA 70804, (225) 342-8170	Federal oversight requires compliance with Section 106	<ul style="list-style-type: none"> <li>• Phase 1 Survey Report</li> <li>• Unanticipated Discoveries Plan review</li> <li>• Dredged Material Placement Area Plan review</li> <li>• Updated Unanticipated Discoveries Plan</li> <li>• Final Phase 1 Survey Report (terminal and pipeline combined)</li> <li>• Consultation for approval of revised construction dock</li> </ul>	NTP or as specified in FERC Authorization	
Creole Nature Trail view shed	NEPA	Louisiana Department of Culture, Recreation and Tourism	Chuck Morse, Capitol Annex Building, Rm. 1051, North 3 <sup>rd</sup> St., Baton Rouge, LA 70802, (225)-342-1896		consultation	NTP or as specified in FERC Authorization	

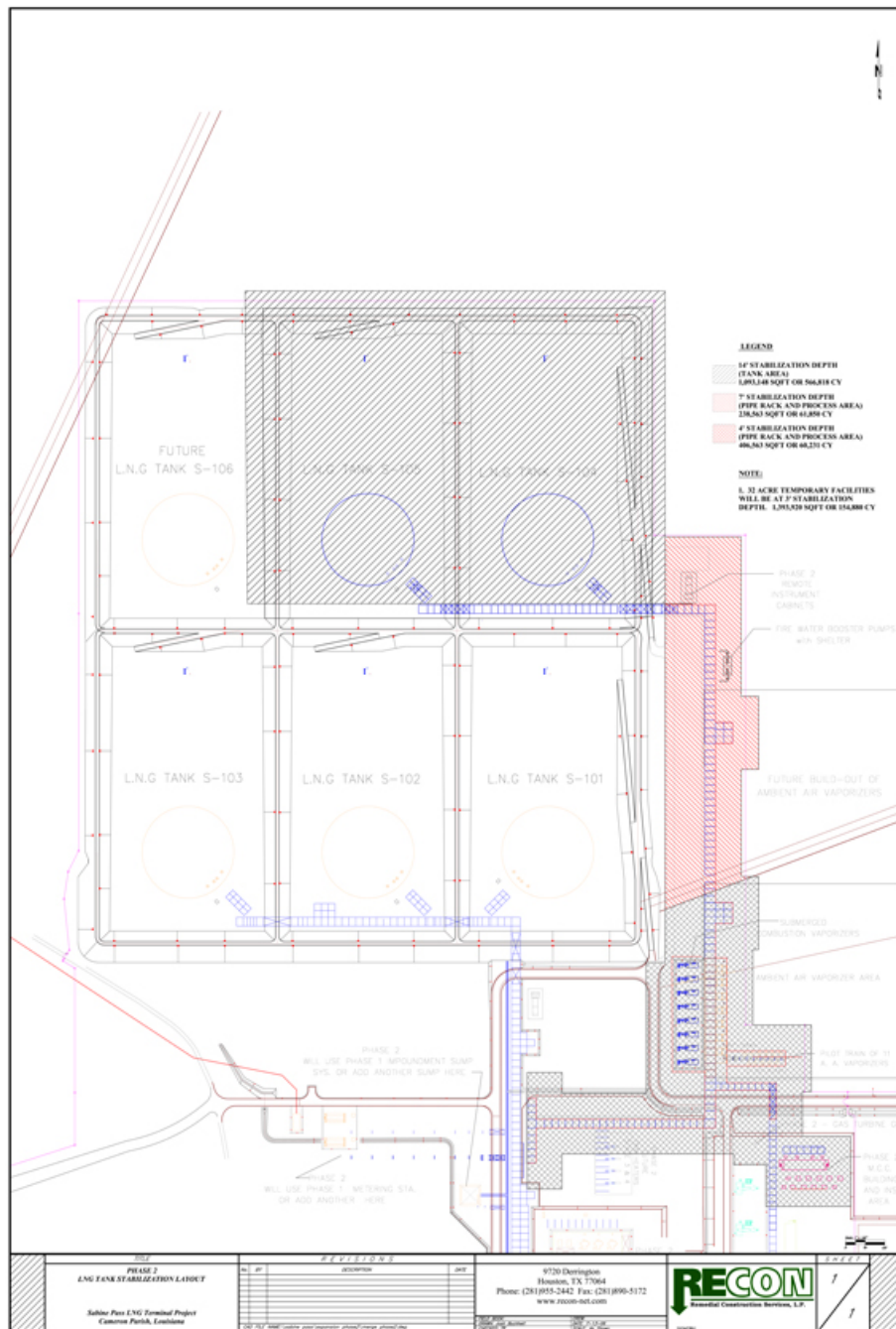
**APPENDIX B-3 TO SOIL CONTRACT**  
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Traffic data for SH82	NEPA/FERC	Louisiana Department of Transportation and Development	Steve Jites, 5827 Hwy 90 East, Lake Charles, LA 70615, 337-437-9105		request for traffic information for SH 82	NTP or as specified in FERC Authorization	
Building Permit		Cameron Parish	Tina Horn, 110 Smith Circle, Cameron, LA 70631 Phone:(337) 775-5718 (ext. 115)	Design and installation of fire sprinkler and deluge systems	<ul style="list-style-type: none"> <li>• Consultation</li> <li>• Site plan and description of facility components</li> </ul>	NTP or as specified in FERC Authorization	
Permit for Construction in a Zone "VE" or Variance as: functionality dependent use, Floodplain Development Permit		Cameron Parish Floodplain Administrator	Tina Horn/Tammy Trahan, 110 Smith Circle, Cameron, LA 70631 Phone:(337) 775-5718 (ext. 115)	Construction of facilities and buildings	<ul style="list-style-type: none"> <li>• Submit Individual Permit application package</li> <li>• Revised Permit application</li> <li>• Revised Step 10 of 16 and Block 22</li> <li>• Indemnification and Roadway Easement permits/approvals</li> <li>• Revised Aquatic Resources Mitigation Plan</li> </ul>	NTP or as specified in FERC Authorization	
Native American consultation	NEPA, Section 106	Caddo Nation	Mr. Bobby Gonzales, Highway 152 and Highway 281, Binger, OK 73009,405-656-2344		consultation	NTP or as specified in FERC Authorization	
Native American consultation	NEPA, Section 106	Alabama-Coushatta Tribe of Texas	Ms. Debbie Thomas, 571 State Park Road 56,936-563-1100		consultation	NTP or as specified in FERC Authorization	



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Native American consultation	NEPA, Section 106	Coushatta Tribe of Louisiana	Coushatta Tribal Council, 1940 CC Bell Road, Elton, LA 70532,337-584-2261		consultation	NTP or as specified in FERC Authorization	
Native American consultation	NEPA, Section 106	Chitimaca Tribe of Louisiana	Kimberly Waldon, Cultural Development 105 Houma Drive, Charenton, LA 70523, (337)- 923-9923.		consultation	NTP or as specified in FERC Authorization	
Native American consultation	NEPA, Section 106	Jena Band of Choctaw	Ms. Christine Norris, 14025 Highway 84 West, Trout, LA 7137, 318-992-2717		consultation	NTP or as specified in FERC Authorization	
Native American consultation	NEPA, Section 106	Tunica- Biloxi Tribe	Mr. Earl Barby, 151 Melacon Dr., Marksville, LA 71351, 318- 253-9767		consultation	NTP or as specified in FERC Authorization	



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**Enterprise Zone Contract #:**

Contractor Name	Vendor Name	Vendor Invoice #	Delivery Date	Purchase Amount	4% State Sales Tax Paid	Description
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Page/Grand Total

Name of Contract Holder:  
Contract Construction Period:  
Enterprise Zone Contract #:

ABC INC.  
07/01/1997 thru 08/30/1998  
970000

SCHEDULE C - Purchased by Contractor and Taxes Paid to Vendor						
Contractor Name	Vendor Name	Vendor Invoice #	Delivery Date	Purchase Amount	4% State Sales Tax Paid	Description
T A John Contractor	Smith Building Co	12345	09/10/1997	13.20	.53	Lumber
T A John Contractor	Smith Building Co	67890	09/23/1997	60.02	2.40	Lumber, fasteners, caulk
Billy Blair Contracting	Southern Building Supply	62630	09/29/1997	83.84	3.35	Nails
Billy Blair Contracting	Harris Paint Co	78901	05/29/1998	4.96	.20	Paint

EXAMPLE

Page/Grand Total162.026.48

Name of Contract Holder:

Contract Construction Period:

Enterprise Zone Contract #:

Page \_\_\_\_ of \_\_\_\_

SCHEDULE CA - Purchased by Contractor and No Taxes Paid to Vendor						
Contractor Name:						
Louisiana Dept. of Revenue Sales/Use Tax Account #:						
Vendor Name	Vendor Invoice #	Delivery Date	Purchase Amount	Description	4% State Use Tax Accrued	
					Tax Period	Amount

Page/Grand Total

Page/Grand Total

Vendor Name	Vendor Invoice #	Delivery Date	Purchase Amount	Description	Tax Period	Amount
Midland Steel, Inc.	1116993	12/28/1997	55,515.00	Steel beams	12/1997	2,220.60
Toolman Co.	2654879	01/11/1998	4,001.00	Dies	01/1998	160.04
Beck Steel, Inc.	123789	03/01/1998	694.40	Steel	06/1998	27.78
Capitol Electric Co.	46805	03/13/1998	2,120.00	Switches	05/1998	84.80

2,493.22

**SABINE PASS LNG, L.P.**

**SABINE PASS LNG RECEIVING, STORAGE AND REGASIFICATION TERMINAL PROJECT**

**SOIL IMPROVEMENT  
ENGINEER, PROCURE AND CONSTRUCT (EPC) SOIL CONTRACT**

**EXHIBIT “C”**

**FORM “A” SCHEDULE OF QUANTITIES AND PRICE**

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FORM A-3	CRAFT RATES FOR CHANGES
FORM A-4	EQUIPMENT RATES FOR CHANGES
FORM B	CONSTRUCTION PLANT AND EQUIPMENT LIST

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**FORM "A" SCHEDULE OF QUANTITIES AND PRICES**

**1.0 WORK TO BE PERFORMED**

Engineer, procure and construct the soil improvement Work, all strictly in accordance with the requirements of the Soil Contract Documents.

**2.0 ESTIMATED SOIL CONTRACT PRICE**

- The Parties estimate that the total of all Unit Prices will be **\$28,500,000.00**.

The breakdown of this Soil Contract Price against unit pay items is detailed on Form "A-1". The actual quantities of Work performed by SOIL CONTRACTOR may vary up or down from this estimate based on written directives from PURCHASER. As set forth in SC-14, SOIL CONTRACTOR shall not be entitled to any adjustment to the Unit Prices based on any variation from the estimated quantities in the actual quantities of Work performed by SOIL CONTRACTOR. This is a Unit Price contract.

**3.0 LETTER OF CREDIT**

SOIL CONTRACTOR shall be reimbursed at cost for the following securities when supported by a proper invoice, but not to exceed:

3.1 Irrevocable Letter Of Credit will issued in substantially the form set forth in Exhibit "B" Appendix B-6 in the amount of \$2,850,000.

Cost of securities in the form of irrevocable letters of credit shall not exceed two percent (2%) of the security value per year.

These not to exceed amounts are listed as separate cost reimbursable pay items on Form A-1.

**4.0 MEASUREMENT FOR PAYMENT**

**4.1 PAYMENT**

Payment in accordance with Form A-1 "Schedule of Prices" shall be full compensation for all work complete in place in accordance with the Soil Contract.

**4.2 MEASUREMENT FOR PAYMENT**

**4.2.1 Mobilization:**

Measurement for payment of Mobilization shall include the completion of principle activities described or implied in the Soil Contract necessary to fully progress the execution of the Work in accordance with the Soil Contract Milestone Dates. Mobilization activities shall include the preparation of laydown areas; mobilization of personnel, materials, tools, construction equipment and consumables, erection of temporary facilities; submittal of required documentation (plans, procedures, insurance, security bonds, etc.).

Payment will be made on a Unit Price basis unless otherwise determined by PURCHASER. The exception will be the down-payment which will be made upon a lump sum basis.



4.2.2 Demobilization:

Measurement for pay of Demobilization shall include all activities required to remove all SOIL CONTRACTOR-furnished materials, equipment, and facilities, and bringing the Phase 2 Site back to a condition suitable for further development in a manner acceptable to the PURCHASER. Activities include the inventory, as-built drawings, closeout and return of all unused PURCHASER-furnished materials. Payment will be a lump sum payment.

4.2.3 Unit Price Pay Items (All Other)

Measurement for payment of all Unit Price pay items, except for Mobilization, Demobilization and at-cost irrevocable letters of credit shall include all activities described or implied in the Soil Contract necessary to provide each representative pay item complete and satisfactory in PURCHASER's opinion.

**5.0 UNIT PRICES AND RATES FOR CHANGES**

The Unit Prices set forth on Form A-2 "Unit Prices For Work, Materials and Instrumentation" shall be full and complete compensation for additional Work or credit for deleted Work.

The rates set forth on Form A-3 "Schedule of Unit Prices for Crafts" and Form A-4 "Unit Prices for Equipment" shall be full and complete compensation for additional Work or credit for deleted Work and complete compensation for use of SOIL CONTRACTOR'S listed plant or equipment for changed work. The Unit Prices set forth in Forms "A-2", "A-3", "A-4" are inclusive of overhead and profit.

**6.0 ADJUSTMENTS**

All Unit Prices are fixed for the duration of the Soil Contract and are not subject to escalation for any cause. Payment of Unit Prices for performance of the Work shall constitute full payment for such performance and covers all costs of whatever nature incurred by SOIL CONTRACTOR in accomplishing the Work in accordance with the provisions of this Soil Contract.

SOIL CONTRACTOR shall maintain all Work in progress until it is accepted. SOIL CONTRACTOR shall repair, rework or replace as necessary any Work damaged or lost due to normal wear and tear, anticipated events, or conditions within its control. No separate payment shall be made for such maintenance costs which are deemed included in the original Soil Contract Price. Any failure to maintain the Work shall be considered a Defect in accordance with the General Condition titled "WARRANTY."

**7.0 REQUIRED SUBMITTALS**

The following submittals are prerequisite to payment for mobilization:

- 7.1 Soil Contract Schedule;
- 7.2 Insurance Certificates and Securities in the prescribed form;
- 7.3 Safety and Health Plan;
- 7.4 Quality Assurance/Control Program/Plan;
- 7.5 Technical procedures (as shown in Exhibit D, Scope of Work, Technical Specifications, and Reports);
- 7.6 Letter Of Credit

**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**  
**EXHIBIT "C", FORM A-1 ESTIMATE AND DESIGNATION OF UNIT PRICES**

ITEM No.	PAY ITEM DESCRIPTION	UNITS	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1.0	<b>MOBILIZATION &amp; DEMOBILIZATION</b>			\$ 145,000.00	
1.1	Mobilization	1	Lot		\$ 145,000.00
1.2	Demobilization	1	Lot	N/C	N/C
2.0	<b>SOIL IMPROVEMENT, DRAINS &amp; INSTRUMENTS</b>				
2.1A	Tank Area General Site Soil Improvement (14 FT)	566,818	CY	\$ 28.27	\$ 16,023,944.86
2.1B	Pipe Rack Area Soil Improvement (7 FT)	61,850	CY	\$ 28.27	\$ 1,748,499.50
2.1C	Pipe Rack & Process Area Soil Improvement (4 FT)	60,231	CY	\$ 28.27	\$ 1,702,730.37
2.1C	Temporary Facilities Soil Improvement (3 FT)	154,880	CY	\$ 28.27	\$ 4,378,457.60
2.2	Tank Containment Dike Area - Vertical Nilex Wick Drains	3,494,010	LF	\$ 0.53	\$ 1,851,825.30
2.3	Tank Containment Dike Area - Horizontal Nilex Drains	103,600	LF	\$ 3.60	\$ 372,960.00
2.4	Inclinometers	60	Each	\$ 2,515.91	\$ 150,954.60
2.5	Vibrating Wire Piezometers	33	Each	\$ 5,380.71	\$ 177,563.43
2.6	Settlement Platforms	31	Each	\$ 1,228.12	\$ 38,071.72
2.7	Stabilize-Construct LNG Sumps	2	Each	\$ 269,386.67	\$ 538,773.34
2.8	Night Shift Work	120	Days	\$ 3,500.00	\$ 420,000.00
2.9	Sulfate Testing	60	Each	\$ 250.00	\$ 15,000.00
3.0	<b>DIKE CONSTRUCTION</b>				
3.1	Dike Construction	3,736	LF	\$ 242.57	\$ 906,241.52
	<b>SUBTOTAL SOIL IMPROVEMENT WORK</b>				<b>\$ 28,470,022.24</b>
4.0	<b>SECURITY (REIMBURSIBLE COSTS)</b>				
4.1	Letter of Credit	1	Lot	\$ 29,769.09	\$ 56,940.04
	<b>GRAND TOTAL (USD)</b>				<b>\$ 28,526,962.28</b>

**SABINE PASS  
LNG RECEIVING, STORAGE AND REGASIFICATION  
TERMINAL PROJECT**

**EXHIBIT “D”  
SCOPE OF WORK AND TECHNICAL SPECIFICATIONS**

**to**

**SOIL IMPROVEMENT  
ENGINEER, PROCURE AND CONSTRUCT (EPC)  
SUBCONTRACT**

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**EXHIBIT "D"**  
**SCOPE OF WORK AND TECHNICAL SPECIFICATIONS**

**1.0 SCOPE OF WORK**

SOIL CONTRACTOR shall provide all Engineering, Procurement, Construction and other Work necessary to complete Soil Improvement. Work shall be performed in accordance with this Exhibit "D," all drawings, specifications, data, referenced documents and Exhibits forming a part of the Soil Contract.

Work includes, but is not limited to design, engineering, surveying, estimating, procurement and transportation of materials, equipment, labor, supervision and construction activities necessary to complete the Work.

Work excluded from this Soil Contract is described below in Section 3.0 titled "WORK NOT INCLUDED".

**1.1 SITE CONDITIONS**

PURCHASER shall provide the following data for use in the design and construction of Soil Improvement:

- Site location plan(s);
- Final geotechnical data reports.

**2.0 SUMMARY OF WORK INCLUDED**

In general, the Work shall include, but is not limited to, the following:

1. Mobilization and demobilization;
2. Moving equipment between locations and setups;
3. Installing all temporary or permanent products (i.e. geotextiles, wick drains, gravel drainage etc.) required for installation or performance of Work described herein;
4. Establishing rough grading & drainage during and upon completion of soil improvements and dike construction;
5. Preaugering, drilling, spudding, mixing, drying or other means necessary to permit access and installation of wick drains or deep soil mix columns or required soil stabilization;
6. Surveying services to execute and complete the Work;
7. Coordinating with other Site construction activities;

- 
8. Installation records, including as-built locations/depths and related reports;
  9. Quality control testing;
  10. Purchasing and installing instrumentation in the dike area;
  11. Excavating a portion of the stabilized soils for use in dike construction;

### **3.0 GENERAL SITE IMPROVEMENT**

Constructing the dikes, including temporary and permanent access ramps, less closure sections after PURCHASER'S Phase 2 Tank erector completes construction or releases the Work areas.

SOIL CONTRACTOR shall complete cement-based, or other suitable reagent, modification of existing dredge fill in the entire area extending approximately 50 feet outside of the containment dikes for the Phase 2 Tanks as shown on the design drawings. The plan area to be treated is estimated at 3,130,273 square feet. These quantities are estimates only; SOIL CONTRACTOR shall verify the actual limits and quantities of the Work.

The material in the Phase 2 Tank area must be treated uniformly, over the approximate 14 feet depth of treatment such that a consistent and uniform strength of not less than 25 pounds per square inch (psi) is achieved. Work includes evaluation, procurement, design, and field execution. Removal or otherwise mitigating obstructions is included in the Scope of Work. This may include removal of any unsuitable materials such as brush, shrubs etc. to an on-Site area designated by PURCHASER.

The Work in the pipe rack and process area must be treated uniformly, over a 7 foot depth when these areas exist on the dredge pile, and over a 4 foot depth when these area are not on the dredge pile such that a consistent and uniform strength of not less than 25 pounds per square in (psi) is achieved. Work includes evaluation, procurement, design, and field execution. Removal or otherwise mitigating obstructions is included in the Scope of Work. This may include removal of any unsuitable materials such as brush, shrubs etc. to an on-Site area designated by PURCHASER.

The Work in the Temporary Facilities Area must be treated uniformly, over a 4 foot depth such that a consistent and uniform strength of not less than 25 pounds per square in (psi) is achieved. Work includes evaluation, procurement, design, and field execution. Removal or otherwise mitigating obstructions is included in the Scope of Work. This may include removal of any unsuitable materials such as brush, shrubs etc. to an on-Site area designated by PURCHASER.

### **4.0 TANK CONTAINMENT DIKE AREA - WICK DRAINS**

SOIL CONTRACTOR to procure and install wick drains to the limits shown on the drawings.

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Stabilization of existing soft soils (natural soils and dredge spoil) is anticipated to extend approximately 90 feet deep over and estimated 3,736 linear feet of dike, and a treatment width of 180 feet maximum. Note: These quantities are estimates only and SOIL CONTRACTOR shall verify the actual limits and quantities of Work.

Wick drains shall be installed at 4 feet on center spacing (not greater than 4 feet). Work includes procurement of all materials, test sections and field execution.

#### **4.1 DEEP SOIL MIX STABILIZATION FOR LNG SUMPS**

SOIL CONTRACTOR shall design, procure and install deep soil mixing retaining gravity wall system to allow construction and use of each of two LNG sumps. SOIL CONTRACTOR shall select the appropriate target unconfined strength for the soil mix, and prepare complete calculations showing lateral and basal stability of the open cut.

SOIL CONTRACTOR shall design and determine the required soil treatment limits (horizontally and vertically) to ensure the lateral and basal stability of a free standing excavation to ensure it can be safely excavated by SOIL CONTRACTOR. Work includes evaluation, design, test sections and field execution, and removal or mitigation of obstructions required to provide deep soil mix stabilization for LNG sumps.

#### **4.2 INSTRUMENTATION**

SOIL CONTRACTOR shall procure, and install instrumentation per Project Specification 3PS-CGOQ-FQ001 titled "SOIL IMPROVEMENT". Instrumentation installed as part of the Work includes inclinometers, vibrating wire piezometers and settlement platforms and all associated equipment. Instruments manufactured by Slope Indicator, as listed below, may be used in the instrumentation program. PURCHASER-approved equivalent instruments (or better) manufactured by others may be substituted.

Instrumentation for piezometers shall consist of a 250-psi range piezometer (part # 52611040), signal cable (part # 50613324), terminal box (part # 57711600), data recorder (part # 52613500), 4-level housing, slip couplings, and 1-inch diameter PVC pipe.

Instrumentation for inclinometers shall consist of 85 mm diameter quick connect inclinometer casing (part # 51150310), data readout (part # 50310900), probe (part # 50302500), 100 feet of control cable (part # 50601002), and top cap (part # 51100500). One casing pulley to facilitate probe insertion (part # 51104606) shall be provided for each inclinometer.

Settlement platforms shall consist of plates (at least 2 ft square) made of steel with a 1-in rod attached to the plate. Installation to include a protective PVC sleeve around the rod. A settlement platform schematic is shown below.

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SOIL CONTRACTOR shall install instrumentation in the dike areas prior to starting dike construction. These instruments are intended to continuously monitor soil and water conditions during construction. SOIL CONTRACTOR shall execute the Work in such a way as to maintain and protect alt installed instrumentation.

During construction SOIL CONTRACTOR shall modify or repair installed instruments as necessary to maintain their function and ready access to them by PURCHASER. Such modifications may include installing specialty casing, extending existing specialty casing, extending settlement platform monitors and any other activities required to allow continuous acquisition of monitoring data. Any instruments damaged by SOIL CONTRACTOR shall be replaced with new instruments at SOIL CONTRACTOR'S cost. All replacements must be of the same type and kind, or PURCHASER-approved equals compatible with existing instrumentation, readout equipment and ancillary devices.

SOIL CONTRACTOR shall collect at least one (1) set of data from all the installed instruments and verify that every instrument is calibrated and working properly. SOIL CONTRACTOR shall prepare procedures that clearly describe the data acquisition and reduction procedures and demonstrate such procedures and submit to PURCHASER to facilitate continuous data acquisition.

During construction production Work, PURCHASER shall monitor instrumentation.

#### **4.3 DIKE CONSTRUCTION**

SOIL CONTRACTOR shall excavate and grade the Phase 2 Tank area after material has been treated and stabilized. The stabilized material excavated from the Phase 2 Tank foundation area will be used to construct the perimeter dikes and areas on the south side of the Phase 2 Tank area, which do not require stabilization but fall within the Tank Dike Perimeter. The Phase 2 Tank area will be graded to the elevations shown on the drawings.

Any material excavated that are determined to be unsuitable for backfill will be removed to an on-Site area designated by PURCHASER.

Work shall comply with Project Specification 3PS-CGOO-F0001 titled "Site Preparation and Earthwork" and with particular reference to Sections 7.0, 9.0, and 12.0.

Dike construction shall be performed concurrently with Phase 2 Tank construction. Excavation in the Phase 2 Tank foundation area must be prioritized to first establish rough grade elevations in the general Phase 2 Tank footprint.

Access shall be allowed for the PURCHASER'S Phase 2 Tank contractor to deliver and install piles and construct the Phase 2 Tanks as the Work on the dikes progresses. SOIL CONTRACTOR shall coordinate with PURCHASER to



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mutually establish those portions of the dike that will have to be modified or left out to allow access. Location of section(s) to leave-out shall be as directed by PURCHASER.

The placing, compaction and testing of fill/backfill in the dike area shall comply with Project Specification 3PS-CGOO-FOOQ1, in particular Sections 12.0 and 20.0, and any special requirements on the design drawings. Prior to placement of backfill, SOIL CONTRACTOR shall compact ground in accordance with requirements of Project Specification 3PS-CGOO.

Work shall include a one foot (1') layer of clay installed under dikes and extending fifty feet (50') on both sides from toe of dikes to prevent infiltration of wicked water into the dikes and to protect the Nilex drain system. Work shall include design and installation of substantial French drain type system under (inside of) the dikes to manage and effectively remove wicked water to the outside of the Phase 2 Tank dikes. SOIL CONTRACTOR shall route wicked water so as to maintain existing drainage patterns to the maximum extent possible.

#### **4.4 WETLANDS**

SOIL CONTRACTOR is aware that there are existing Wetlands within the limits of the Work area. PURCHASER shall survey and delineate all Wetlands prior to SOIL CONTRACTOR'S mobilization.

SOIL CONTRACTOR shall provide, install and maintain at all times silt fencing, hay bales, temporary fencing (orange "snow fence") as directed by PURCHASER, signs, and a berm/swale structure as required to preserve and maintain isolation of the Wetlands during construction activities and to prevent sediment laden storm water runoff from flowing across the Site into the wetlands. If Wetlands are disturbed, SOIL CONTRACTOR shall immediately inform PURCHASER. SOIL CONTRACTOR, at its expense, will alleviate or restore damage as directed by PURCHASER. After completion of all of SOIL CONTRACTOR'S Work silt fence shall be left in a properly maintained condition or remove as directed by PURCHASER.

#### **4.5 GENERAL REQUIREMENTS**

SOIL CONTRACTOR shall make adequate provisions for dewatering and temporary drainage, including wick drain flows, during construction. Runoff leaving the Site shall be controlled to meet any Louisiana state laws and regulations relative to environmental protection and to accommodate the requirements of the Construction Environmental Control Plan (CECP). Temporary erosion control measures, such as sediment control basins, silt fences, hay bales, etc., shall be provided in all new cut and fill slopes during construction and at other locations, such as spoils disposal areas, as required or directed by PURCHASER.

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Drainage ditches and sedimentation control features shall be in place prior to any major grading to control runoff from those areas. SOIL CONTRACTOR shall be responsible for maintaining the drainage ditches and the sedimentation control features throughout the duration of SOIL CONTRACTOR'S activities.

The Work shall comply with the requirements of Section 9.0 of Project Specification 3PS-CGOO-FGOQ1 titled "SITE PREPARATION AND EARTHWORK".

#### **4.6 TEMPORARY ROADS**

Temporary roads inside SOIL CONTRACTOR'S Work areas as required by SOIL CONTRACTOR, shall be constructed to provide all-weather access for construction activities during soil improvement. At SOIL CONTRACTOR'S expense, all temporary roads installed by SOIL CONTRACTOR for SOIL CONTRACTOR'S convenience and use, shall be completely removed at the end of the SOIL CONTRACTOR'S activities and the areas restored to their original elevations. PURCHASER may direct SUBCONTACTOR not to restore some or all temporary roads.

#### **4.7 AGGREGATE/GEOTEXTILE FABRIC**

Aggregate and Geotextile Fabric for use in execution of the Work or for SOIL CONTRACTOR'S convenience will be provided by SOIL CONTRACTOR at no expense to PURCHASER or OWNER.

SOIL CONTRACTOR shall furnish and install aggregate, Geotextile, and other materials required by approved design, subcontract or specification, as are included in the Work items above.

#### **4.8 SURVEY**

SOIL CONTRACTOR shall establish all control points, lines, and grades required to control the Work, PURCHASER will provide permanent control points and benchmarks.

SOIL CONTRACTOR shall perform a survey(s) to verify the existing extent and elevation of the Work areas.

SOIL CONTRACTOR shall submit for PURCHASER'S review and approval the surveying procedures to be used in the performance of this Work.

#### **4.9 FIELD AND LAB TESTING**

An independent lab shall be provided by SOIL CONTRACTOR and approved by PURCHASER to perform all testing requirements as required by the Phase 2 Project specifications or as identified in approved SOIL CONTRACTOR submittal, including Quality Control Submittal(s).

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#### **4.10 SITE ENVIRONMENTAL PLAN**

SOIL CONTRACTOR shall submit for PURCHASER'S review and acceptance, an environmental control plan for the Work. SOIL CONTRACTOR'S plan shall be based on PURCHASER'S Construction Environmental Control Plan (CECP).

#### **5.0 WORK NOT INCLUDED**

- Dike closure sections, after PURCHASER's Phase 2 Tank erector completes construction or releases the Work areas;
- Concrete ditches;
- Finished grading and paving; and
- Design of Wick Drain System, except required drainage plans.

#### **6.0 REVIEWS**

SOIL CONTRACTOR'S procurement and construction procedures and documents shall be subject to PURCHASER'S review and approval prior to implementation of any Work. This shall also apply to the Work of SOIL CONTRACTOR'S Subcontractors and Sub-subcontractors.

#### **7.0 CONSTRUCTION**

SOIL CONTRACTOR shall furnish in a timely manner all materials and equipment, other than those specifically stated in the Soil Contract Documents as being supplied by PURCHASER, for the satisfactory completion of the Work. SOIL CONTRACTOR shall receive, handle, store, maintain, sort, and install all materials for the satisfactory completion of the Work.

##### **7.1 TEMPORARY WORKS**

Temporary works shall include the erection and maintenance of all temporary facilities required for SOIL CONTRACTOR'S operations, including but not limited to:

- Field offices;
- Field shops;
- Warehouses;
- Security fencing;
- Stockpile areas;

- 
- Material unloading facilities;
  - Sanitary facilities;
  - Utilities, such as potable water, industrial water, and power supply and distribution;
  - Effluent treatment and solid waste handling as required;
  - Any temporary roads needed by SOIL CONTRACTOR to access Work areas.

## **7.2 TRANSPORTATION**

Transportation shall include the transportation of all permanent and temporary materials, fabricated items for installation, equipment, tools, supplies, etc. to and from the Site as required for the execution of the Work.

## **8.0 ACCEPTANCE CRITERIA - TECHNICAL OPTIONS**

- 8.1** Acceptance criteria for methods proposed or designed by SOIL CONTRACTOR and not specifically addressed in the attached specifications shall be submitted to PURCHASER by SOIL CONTRACTOR as part of SOIL CONTRACTOR'S formal technical submittal.
- 8.2** Acceptance criteria is to address insitu testing both before and after soil improvement, including type of testing, frequency of testing and related performance and test requirements. Submittal is to include calculations and documentation of relationship between proposed acceptance criteria and key design properties and performance characteristics.
- 8.3** Proposed acceptance criteria are to be coordinated with a Reproduction Test Program; complete details of both are to be provided by SOIL CONTRACTOR for review and comment. PURCHASER'S acceptance and approval must be obtained before proceeding with testing or production phases of the Work.

## **9.0 FIELD EXECUTION PLAN**

- 9.1** Before mobilization to the Site or as approved by PURCHASER, SOIL CONTRACTOR shall submit a field execution plan. This plan shall detail the Site activities including detail of test sections, equipment, schedule, wick drain and improved soil procedures. Key personnel and Subcontractors shall be identified and qualifications presented.
- 9.2** The field execution plan must contain a complete quality control plan that will detail all precautions and measurements that the SOIL CONTRACTOR will take during production to ensure that the product will conform to the Soil Contract Documents.

- 
- 9.3 The field execution plan must include details for set up of a water supply system (if required for the soil improvement technique proposed/adopted). Also, the plan must provide a water discharge system capable of sediment filtration and discharge capability to an area designated by PURCHASER. This system will require re-circulation of water to limit discharge of hydrocarbon contaminated water, including oil/water separators, and settlement ponds if required.
  - 9.4 The plan must provide an estimate of the raw material requirements for the construction of the IMPROVED SOIL, and identify available sources.
  - 9.5 The plan must identify material transportation, handling and placement requirements.
  - 9.6 The plan must explain the type and quantity of waste expected from the STABILIZED SOIL improvement, and how that waste will be controlled and disposed of. If spoil meets requirements of improved soil, it may be spread out over the treated area and left in place (with appropriate compaction, shaping and drainage maintained).
  - 9.7 The field execution plan must be approved by PURCHASER before construction begins.
  - 9.8 The field execution plan must address controls and procedures to prevent fugitive emissions of cement, lime, fly ash or other additives into the ambient air/environment.
  - 9.9 Dust control measures must be identified and incorporated into the plan.
  - 9.10 The field execution plan is to include a proposed schedule of Work (resource loaded), identifying key tasks, sequence, duration and include major equipment and labor.
  - 9.11 The field execution plan is to provide for coordination and accommodation with PURCHASER'S other on-Site contractors.
  - 9.12 The field execution plan must include or reference a detailed drainage plan to control rainfall, wick drainage and other focal flows and direct them off-Site in conformance with contractual and legal requirements.
  - 9.13 Field execution plan must include plan for excavation of the Phase 2 Tank area and construction of the dikes, with priority to the area necessary for erection of the Phase 2 Tanks.

## **10.0 TECHNICAL SPECIFICATIONS**

In the specifications listed below, all references to "OWNER" shall be to "PURCHASER", and all references to "LNG Tanks" or "tanks" shall be to the "Phase 2 Tanks".

Specification No	Rev.	Title
3PS-CGQO-FOOQ1	OOB	Site Preparation and Earthwork
3PS-COOO-FQG01	B	Soil Improvement

## 11.0 REPORTS

- 11.1 Geotechnical Investigation, Sabine LNG Terminal, Cryogenic Tanks, Sabine, Louisiana; prepared for Cheniere Energy, Inc. by Tolunay-Wong Engineers, Inc., September 12, 2003.
- 11.2 Final Report, Geotechnical Investigation, Sabine LNG Terminal, Process Area, LNG Pipe Racks, Berth and Construction Docks, Sabine, Louisiana; prepared for Cheniere Energy, Inc. by Tolunay-Wong Engineers, Inc., September 19, 2003.
- 11.3 Geological Hazard Evaluation, Sabine LNG Terminal, Sabine, Louisiana; prepared for Cheniere Energy, Inc. by Tolunay-Wong Engineers, Inc., September 19, 2003.

## 12.0 ATTACHMENTS

- 12.1 Drawing, Data And Submittal Requirements, Revision date 05 January 2004.

SABINE PASS LNG TERMINAL PROJECT

PROJECT SPECIFICATION

FOR

SITE PREPARATION

AND

EARTHWORK

OOA 01-31-05 Issued for Information  
REV. DATE Reason for Revision

Project Specification for Site  
Preparation and Earthwork

PKM MHS SO  
BY CK'D APPR APPR  
JOB NO. 25027-001  
SPECIFICATION NO. REV.  
3PS-CG00-FOOO1 OOB  
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**1.0 SCOPE**

This specification establishes general construction requirements for site preparation and earthwork. The extent of work for each area shall be as shown on project drawings. Construction shall be true to the line, grade and cross-sections as shown on the drawings, and as described herein. Supplementary or modifying requirements to this specification shall be as defined on project drawings.

**2.0 RELATED CODES, SPECIFICATIONS AND DOCUMENTS**

The following codes, specifications, regulations, and industry standards, where applicable, shall cover design, material, and construction of structures. Unless noted otherwise all documents listed shall be the latest edition in effect at the time of contract award. Additionally, internationally recognized codes and standards may be submitted for PURCHASER'S review and approval.

**2.1. National Codes and Specifications**

2.1.1. ASTM American Society for Testing and Materials:

- C 136 Method for Sieve Analysis of Fine and Coarse Aggregates, 1984a
- D 422 Method for Particle-Size Analysis of Soils, 1990
- D 558 Test Methods for Moisture-Density (Unit Weight) Relations of Soil-Cement Mixtures, 2004
- D 559 Test Methods for Wetting and Drying Compacted Soil-Cement Mixtures, 2003
- D 698 Test Methods for Laboratory Compaction Characteristics of Soil - Using Standard Effort (12,400 ft-lbf/ft<sup>3</sup>), 1991
- D 1556 Test Method for Density and Unit Weight of Soil in Place by the Sand-Cone Method, 1990
- D 1557 Tests Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft<sup>3</sup>), 1991
- D 2216 Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, 1992
- D 2922 Test Methods for Density of Soil and Rock in Place by Nuclear Methods (Shallow Depth), 1991

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D 3017 Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth), 1993

D 4318 Test Method for Liquid Limit, Plastic Limit and Plasticity Index of Soils 1993

2.1.2. OSHA Parts 1910 and 1926 - Safety and Health Regulations for Construction

2.1.3. THD Texas State Department of Highways and Public Transportation "Standard Specifications for Construction of Highways, Streets and Bridges"

2.1.4. LHD Louisiana State Department of Highways and Public Transportation "Standard Specifications for Construction of Highways, Streets and Bridges"

## **2.2. Project Specifications**

2.2.1. 3PS-COOO-F0001 - Soil Improvement

## **3.0 CLEARING AND GRUBBING**

### **3.1. Environmental Impact**

The environmental impact to surrounding areas shall be kept to a minimum during the site preparation work. The drainage and sedimentation control plan shall comply with requirements of the Construction Environmental Control Plan (CECP). Absolutely no clearing or incidental impacts will be allowed outside the limits of work.

### **3.2. Survey Control**

Both horizontal and vertical control shall be based on the coordinates and elevations shown on the project drawings. Survey base lines and benchmarks shall be established and maintained throughout the construction.

### **3.3. Existing Underground Obstacles**

No existing underground obstacles, other than small, buried objects and 3" Noble gas pipeline (to be relocated by the Owner), are known at this time.

### **3.4. Logging**

The SOIL CONTRACTOR shall cut, trim, and stack at designated locations all merchantable timber (trees with trunk diameters of 8" and larger). The trunks shall be stripped of all branches and the branches hauled to the designated spoils area.

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### **3.5. Clearing**

The entire area within the limits of clearing, indicated on the drawings, shall be cleared of all materials above or at the natural ground surface. Materials to be cleared include down timber, brush, rubbish and vegetation. Trees outside of the limits of plants or roads, and designated by the PURCHASER and OWNER shall remain and be protected during construction. No clearing of grass, small brush and vegetation is required in the LNG Tank Soil Improvement areas (except sump areas) unless identified by the Field Geotechnical Engineer.

### **3.6. Grubbing**

The entire area within the limits of clearing shall be grubbed of all stumps, large roots, and other objectionable material and/or decayed vegetable matter, to a depth of not less than 12 inches below natural grade. When tree stumps are present, grubbing shall extend to their full depth. Any exceptions to this will be indicated on the drawing.

### **3.7. Disposal**

The merchantable timber from the logging operations shall be disposed of by sale or as directed.

Debris from the clearing and grubbing operations shall be disposed of by burning, chipping, or burial, as directed. Debris designated to be burned shall be burned as soon as possible. Burning of debris shall be by "Forced Draft Open Pit Method" only, which requires an open trench, portable ducts and air blowers. This method of burning reduces fire hazard, eliminates smoke emission and speeds up the operation. The SOIL CONTRACTOR shall maintain approved fire fighting equipment and conduct all burning operations in strict accordance with laws and regulations related to burning debris.

Material too wet to burn shall be piled in windrows for later burning.

Any material from clearing and grubbing operations that cannot be burned, shall be removed to the spoil disposal area as designated by the OWNER.

All contaminated material shall be deposited in containers supplied by the OWNER. Containers must be covered at all times. The OWNER shall be responsible for disposal of all contaminated materials.

## **4.0 STRIPPING**

- 4.1.** The area within the limits of stripping indicated on the drawings shall be stripped of all top soil containing organic matter, roots, debris, and other material, to a depth of not less than six-inches below existing grade. Actual extent of stripping shall be determined by the Field Geotechnical Engineer. Strippings shall not be

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used as backfill for grub holes. No stripping is required in the LNG Tank Soil Improvement areas unless directed by the field Geotechnical Engineer.

4.2. AH stripped material shall be removed to designated disposal areas. All contaminated material shall be deposited in accordance with Section 3.7 above.

4.3. Good topsoil materials from stripping shall be stored in separate stockpiles for future use in stabilizing cut/fill slopes and landscaping.

## **5.0 BORROW PITS**

If required, fill material which includes structural fill and general fill as specified in Sections 6.1, 6.2 and 6.3 shall be obtained from outside borrow pits approved by the Engineer. Samples of fill and laboratory test results shall be submitted to the Engineer for prior approval.

## **6.0 FILL**

The fill material shall not contain any roots, organic materials, debris or other deleterious material.

Onsite native soil and dredged material, free of any organic and other deleterious material, shall be used as fill. The use of fill material shall be as follows unless noted otherwise on drawings:

- Structural clay or Structural Granular fill shall be used within the footprints of the ISBL, under roads, and under any major soil-supported foundation as indicated on design drawings.
- General fill shall be used In OSBL areas without any foundation, and under construction facility / laydown areas.
- Granular sand fill shall be used under foundations and paving slabs if shown on design drawings.
- Imported materials can be used if onsite soil does not meet this specification requirement or is not available in sufficient quantity within the property limit.

The fill material shall be compactable to the level required by this specification. The SOIL CONTRACTOR shall conduct a test section with proposed equipment to evaluate the effectiveness of the equipment in compacting the onsite soil and to determine the appropriate lift thickness.

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**6.1. Structural Clay Fill**

6.1.1. Structural day fill shall be an inorganic, non-expansive cohesive material meeting the following requirements:

Liquid Limit	40% Maximum
Plasticity Index	20% Maximum
	10% Minimum
Maximum Size	1 Inch
% Passing #200 Sieve	80% Maximum
	40% Minimum

6.1.2. The structural clay fill shaft be:

- Moistured-conditioned to within (+/-) 3% of the optimum moisture content
- Placed using maximum loose lift thickness of 8 inches
- Compacted to at least 95% of maximum dry density determined by ASTM D1557.

6.1.3. Field testing of each layer at each location shall be conducted to determine compacted density at a minimum frequency of two (2) tests per 5,000 sq. ft. of fill placed, with a minimum of two (2) tests per layer, using the methods of ASTM D1556, or ASTM D2922 and D3017.

6.1.4. Laboratory compaction tests (ASTM D1557), Atterberg limits tests, and grain size distribution tests (including hydrometer) shall be conducted for every 5,000 C.Y. of material placed or whenever there is a change in the soil type being placed.

**6.2. Structural Sand Fill**

6.2.1. Structural sand fill shall consist of well-graded granular soils. It shall not contain any significant amounts of organics or debris, and shall conform to the following criteria: 3

A. Gradation

<b>U.S. Standard Sieve Size</b>	<b>Percent Passing (By Weight)</b>
2"	100
3/4"	70-100
No. 4	30-100
No. 20	15-90
No. 50	5-30
No. 200	0-5

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- B. Liquid Limit = 25 max
- C. Plasticity Index-10 max
- 6.2.2. Structural sand shall be placed in loose lifts less than 8 in. thick and shall be uniformly compacted to at least 95% of the maximum dry density based on Modified Proctor ASTM D-1557 test method. The granular fill shall be compacted with vibrating rollers or tampers.
- 6.2.3. Field testing of each layer at each location shall be conducted to determine compacted density at a minimum frequency of two (2) tests per 10,000 sq. ft. of fill placed, with a minimum of two (2) tests per layer, using the methods of ASTM D1556, or ASTM D2922 and D3017.

**6.3. General Fill**

- 6.3.1. General fill shall be an inorganic, non-expansive cohesive material meeting the following requirements:

Liquid Limit	30%
Plasticity Index	40% Max
	20% Min
Maximum Size	1 Inch
% Passing #200 Sieve	80% Maximum

- 6.3.2. The fill shall be:
- Moisture-conditioned to within (-) 2% to (+) 4% of the optimum moisture content
  - Placed using maximum loose lift thickness of 12 inches
  - Compacted to at least 92% of maximum dry density determined by ASTM D1557.
- 6.3.3. Field testing of each layer at each location shall be conducted to determine compacted density at a minimum frequency of two (2) tests per 10,000 sq. ft. of fill placed, with a minimum of two (2) tests per layer, using the methods of ASTM D1556, or ASTM D2922 and D3017.
- 6.3.4. Laboratory compaction tests (ASTM D1557), Atterberg limits tests, and grain size distribution tests (including hydrometer) shall be conducted for every 10,000 C.Y. of material placed or whenever there is a change in the soil type being placed.

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**6.4. Granular Sand Fill**

- 6.4.1. Granular sand fill may be used for leveling purposes underneath foundations and paving slabs, if indicated on design drawings.
- 6.4.2. Granular sand layer shall consist of well-graded granular soils. It shall not contain any significant amounts of organics or debris, and shall conform to the following gradation:

U.S. Standard Sieve Size	Percent Passing (By Weight)
2"	100
No. 4	72-100
No. 16	26-80
No. 50	5-25
No. 200	0-7

- 6.4.3. Granular sand fill shall be placed in loose lifts less than 8 in. thick and shall be uniformly compacted to at least 95% of the maximum dry density based on Modified Proctor ASTM D-1557 test method. The granular fill shall be compacted with vibrating rollers or tampers.

**6.5. Lime Stabilized Soils**

- 6.5.1. Lime stabilized in-situ plastic soils may be used as a substitute for structural clay fill or structural granular fill in areas where the potential of volume changes with changes in moisture content is expected, and in areas as specified in drawings. Optimum lime content tests shall be performed to determine the optimum lime content (6 to 8 % by weight) and submitted for approval.
- 6.5.2. Lime treated soils should be placed in loose lift thickness of 8 inches or less, and compacted at 1 percent dry to 3 percent wet of the optimum moisture content to at least 95 % of the maximum dry density determined by ASTM D698.
- 6.5.3. Standard specifications of the State Department of Highways and Public Transportation should be generally followed for lime-stabilized soils. The exposed surface of the fill shall be protected to prevent moisture loss.

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**6.6. Gravel / Crushed Rock Fill For Below Water Construction**

1. Gravel / Crushed Rock fill shall be used in areas of wet sub grade and for areas with standing water which remains after removal of surface water or where specifically indicated on design drawings. The rocks shall be placed to raise the grade from below water level to 4 inches above water level.
2. Gravel / Crushed Rock fill shall consist of well-graded clean gravel with maximum particle size of 3 inch, and maximum 10% (by weight) passing Sieve No. 4. The soil classification shall be GW per ASTM D2487.
3. Gravel / Crushed Rock fill for below-water grading can be dumped in one or more layers. Compaction shall be achieved by several passes of fully loaded dump truck, scraper, or a 10 to 20 ton roller, as determined by the PURCHASER'S Field Geotechnical Engineer, or duly authorized representative.

**7.0 COMMON EXCAVATION**

- 7.1. Excavation work shall be performed to the lines and grades shown on the project drawings. If unsuitable soil is encountered upon reaching the specified final excavation depth, replace the soil with suitable fill material as specified in Section 6.0 and compact to the required level.
- 7.2. Wet or flooded excavations shall be dewatered and all mud removed before any fill is installed. If ground water or springs are encountered, work shall not proceed, excluding emergency measures, until the methods for handling and controlling the water have been approved.
- 7.3. Excavating machinery shall be used with caution in areas where existing underground installations, such as foundations, manholes, paving, lines, and electrical and instrument cables or ducts may be buried. Where there is danger of damage to such installations, hand excavation shall be used, with bracing and shoring as needed. In operating areas, the use of excavating buckets with teeth will be permitted only.  
  
Provide immediate notification of any damage to underground installations and take whatever emergency action is specified. Advise if any underground facilities are encountered that are not on the project drawings or in the specifications and protect, support, and/or remove these facilities as directed before proceeding with the work.
- 7.4. The method of excavation shall not weaken the surrounding areas or damage structures or parts thereof that are completed or under construction. Existing structures and utilities adjacent to excavations shall be protected and supported to prevent settlement.
- 7.5. All work for construction of earth-retaining structures (sheet piling, shoring, etc.) shall be in accordance with good and accepted engineering practices and the requirements of all local regulating authorities.



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- 7.6. Areas that are over-excavated for removal of unsuitable material or because of error or obstructions shall be backfilled with suitable compacted fill material meeting the requirements of Section 6.0 of this specification
  - 7.7. Slopes of all excavations shall be cut true and straight and all unsuitable materials in the slope shall be removed.
  - 7.8. Soil excavated from the site and dredged sand shall be used as fill material. It shall be in suitable condition for compacting and shall meet the requirements of Section 6.0.
  - 7.9. Excess unusable soil material shall be stockpiled separately and disposed of property at the land fill/disposal areas shown on the project drawings.

#### **8.0 COMPACTING ORIGINAL GROUND EXCLUDING LNG TANK SOIL IMPROVEMENT AREAS**

- 8.1. Daily rolling shall be performed in all areas stripped or excavated, in order to seal and protect the exposed surface.
- 8.2. After stripping is completed, the areas at final rough grade, where no more excavation is planned, shall be proof rolled. Proof rolling shall be performed with a fully loaded tandem dump truck, scraper, or a 9-10 ton vibratory steel drum roller.
- 8.3. In areas to receive fill, the upper 8 inches of the exposed natural soils should be scarified and moisture conditioned to within (+/-) 3% of the optimum moisture content and re-compacted to at least 92% of ASTM D 1557.  
  
If the sub grade displays elasticity or deformation under the weight of the construction equipment, the material shall be excavated and re-compacted, or removed and replaced with suitable fill material.
- 8.4. All in place material within 12 in. of roads or paving subject to wheel loads shall be compacted to 95% of the maximum dry density per the standard Proctor laboratory compaction test (ASTM D1557) as applicable.

#### **9.0 GENERAL SITE WORK**

- 9.1. The SOIL CONTRACTOR shall prepare an environmental work control plan to ensure that all construction meets the requirements of the CECF.
- 9.2. Suitable excavated material from the site shall be used for fill and embankments. Fill material shall meet the requirements outlined in Section 6.0. Any deviations shall require prior written approval. All unsuitable or excess excavated material shall be removed to a designated onsite area.

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- 9.3. Drainage of both fill and borrow areas shall be maintained at all times to prevent ponding of surface water following rainfall by providing temporary ditches and swales as required in each respective site area. All stockpiles and surcharge embankments should be sloped as needed to prevent ponding. Tan rolling” to provide a surface seat shall be performed as needed to prevent saturation during wet weather or temporary shutdown of operations. Excavations shall be sloped to a low point to allow pumping and eliminate saturation by ponding.
  - 9.4. Silt fence, stone dikes, sedimentation basins, diversion trenches, straw bales and similar items as required shall be used to control runoff leaving the site and prevent associated problems with water courses and adjacent property, including other units within the plant. If there is any drainage discharge to water courses or adjacent property owned by others, a Stormwater Pollution Prevention Plan (SPPP) is required in accordance with state regulations.
  - 9.5. The PURCHASER’S inspector shall be notified if sand or other highly erosive soil concentrated ground water or other potentially unstable condition is encountered on the face of a cut slope.
  - 9.6. In-place material shall be compacted as specified in Section 8 of this specification.
  - 9.7. Fill material, unless otherwise indicated on the drawings or specifications, shall be compacted per Section 6.0 and 16.0 of this Specification,
  - 9.8. Tolerance for this work shall be plus or minus one-tenth of a foot to required elevation.

#### **10.0 DITCHES. DEPRESSED PIPEWAYS. PONDS AND BASINS**

- 10.1. Over excavation of ditches and depressed pipe ways shall be avoided. Over excavated areas shall be brought to the required grade with compacted fill material.
- 10.2. Acceptable excavated material shall be used for fill material. Unsuitable or excess excavated material shall be removed to designated disposal areas.
- 10.3. Tolerance for excavation for ditches and depressed pipe ways shall be plus or minus 5/8 inch to required line, and to the required grade.
- 10.4. Tolerances for ponds and basins shall be plus or minus 3/4 inch to the required lines and grades. Any required volumes of ponds or basins shall be maintained irrespective of the allowed tolerances for location.

#### **11.0 EMBANKMENTS. AND EARTH PIKES**

- 11.1. In-place material under roads, and dikes (i.e. sub grade) shall be compacted as specified in Section 8 of this specification.

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- 11.2. Road embankment as outlined on the design drawings shall be compacted to a minimum field density of 92% of maximum dry density per ASTM D 1557 as applicable.
  - 11.3. Clay dikes shall be compacted to at least 95% of maximum dry density per ASTM D698. Cement / Fly Ash stabilized dikes shall be compacted to at least 95% of maximum dry density per ASTM D558,
  - 11.4. Road embankments and earth dikes shall be compacted in successive layers for the full width of the cross-section, and in lengths to suit the sprinkling and compaction methods utilized. Layers shall be constructed paralleled to the finish grade, with a minimum cross slope of 1/4" per foot.
  - 11.5. Tolerances for road/railroad embankments shall be plus or minus two-tenths of a foot to the required line and shall be to the required grade.
  - 11.6. Tolerances for earth dikes shall be plus or minus three-tenths of a foot to the required line, and plus or minus one-tenth of a foot to the required grade.

## **12.0 LNG TANK CONTAINMENT DIKE**

The LNG containment dikes shall be constructed with onsite cohesive clay material or cement / fly ash stabilized soil.

### **12.1. Clay Dike**

The exposed soils under the LNG tank dikes shall be scarified, moisture-conditioned and re-compacted prior to any fill placement. Fill for the dike shall be onsite clayey material, which must be relatively impervious. The fill shall be moisture conditioned and properly compacted in accordance with Section 16.0. The slopes and top of dike shall be protected against moisture loss.

### **12.2. Cement / Fly Ash Stabilized Dike**

Cement or Fly Ash stabilized onsite materials in and around the tank areas can be used to construct the dike. The fill shall be placed at controlled rates to allow the underlying soft soils to consolidate and gain shear strength as the dikes are constructed. Cement or Fly Ash treated soils should be placed in loose lift thickness of 8 inches or less, and compacted at 1 percent dry to 3 percent wet of the optimum moisture content to at least 95 % of the maximum dry density determined by ASTM D558. The testing method (A, B, or C) shall be selected depending on the material gradation to be tested. Laboratory tests shall be performed to determine the optimum Cement or Fly Ash content and to determine the wet and dry characteristics per ASTM D559. The laboratory results shall be submitted for approval prior to placement. Improved material used for dike construction shall meet the minimum in-situ strength requirements defined in section 4.1.1 of project specification 3PS-OGO-FOQQ1, Soil Improvement.

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Alternates to compaction testing specified above shall be considered for Cement or Fly Ash materials. Before proceeding with dike construction, SOIL CONTRACTOR shall submit for approval by PURCHASER a complete dike construction execution plan as established during the pre-production test program. The pre-production test program, in conjunction with the wick drain test section, shall establish the optimum Cement or Fly Ash content of the improved soil, the optimum moisture content, the method of improved soil placement and compaction, and the methodology for ensuring quality control of the improved soil mix and placement in the dikes, including both type and frequency of testing. The pre-production test program shall establish a correlation between the above criteria and the in-situ soil strength such that the design intent of the constructed dikes is met. The pre-production test program shall also establish the criteria for determining whether the improved soil has begun to set and is no longer acceptable for use in the dike construction without further manipulation. The test program shall establish acceptable criteria for use of improved material both before and after initial set. SOIL CONTRACTOR'S execution plan shall clearly describe how acceptable methodologies and criteria established during the pre-production test program will be ensured and verified during the full production phase.

#### **12.3. Dike Extensions**

Dikes shall be extended as required to compensate for any settlement. Existing dike shall be benched at interface with dike extension. Vertical dimension of step shall be 12 inches maximum. Surface of existing dike shall be moisture conditioned to ensure bond with new dike material. New dike materials and placement shall be in accordance with section 12.2 above.

#### **12.4. Tolerances**

Tolerances for LNG Tank Containment dike shall be plus or minus three-tenths of a foot to the required line, and plus or minus one-tenth of a foot to the required grade.

### **13.0 BACKFILL AROUND UNDERGROUND LINES**

1. Fill or backfill around sewers, culverts, piping, conduit, and cables shall be structural fill or granular sand fill as shown on design drawings. The material shall be carefully placed by hand simultaneously on both sides of the line, in layers not over 6 inches loose measurement, and thoroughly compacted until the line is covered with a minimum of 1 foot of fill.  
Flowable fill may also be used as bedding and fill up to the spring line of the pipe as a construction convenience.
2. Necessary care shall be exercised to assure the material is placed and well compacted by hand under pipe haunches.

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3. The remainder of the fill and/or backfill above the height of 1 foot, may be Structural or General fill as required. This fill may be placed and compacted by mechanical equipment
  4. Damage to the wrapping tape or protective coating of underground pipe during back filling and compaction shall be avoided.

#### **14.0 STABILIZED SOILS EXCLUDING LNG TANK SOIL IMPROVEMENT AREAS**

- 14.1. Stabilized soils may be used as a substitute for Structural, or granular sand fill in areas where the potential of volume changes with changes in moisture content is expected, and in areas as specified in drawings. Laboratory tests shall be performed to determine the optimum cement content (5 to 8 % by weight) and submitted for approval.
- 14.2. Stabilized soils should be placed in loose lift thickness of 8 inches or less, and compacted at 1 percent dry to 3 percent wet of the optimum moisture content to at least 95 % of the maximum dry density determined by ASTM D698A.
- 14.3. The exposed surface of the fill shall be protected to prevent moisture loss.

#### **15.0 FILL UNDER SLABS ON GRADE**

- 15.1. Slab on grade shall be built on structural fill, as specified in Section 6.1 and 6.2. A minimum of 4" of clean granular sand, as specified in Section 6.4, shall be placed below the bottom of slab on grade if specifically shown on drawings.
- 15.2. Rainfall runoff shall be diverted away from the foundation slab area to reduce the potential for shrinking or swelling of the sub grade soils.

#### **16.0 METHOD OF COMPACTION EXCLUDING LNG TANK SOIL IMPROVEMENT AREAS**

- 16.1. Material for fill or embankment construction shall be spread in uniform, level layers not to exceed the depths as noted in Section 6.0.  
Backfill required for substructures and foundations shall be placed after all forms have been removed and the concrete has attained at least 70 percent of the 28 day compressive strength or a minimum period of seven days.  
The backfilling operation shall prevent equipment loads from surcharging foundations or substructure. Care shall be exercised in placing backfill to avoid damage to conduit and piping systems.  
All backfill materials shall be placed in a manner to avoid damage to waterproof membrane coatings on sub-structure concrete walls. Backfill around manholes, pump stations and other structures shall be placed and compacted equally along all sides of the structures to prevent unequal loading.

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- 16.2.** All clods or lumps shall be broken up and the material shall be mixed by blading, harrowing, or similar methods until a uniform layer of uniform density is obtained. Each layer of material shall be uniform as to material, density, and moisture content before beginning compaction.
- 16.3.** Prior to compacting, the moisture content of the material shall be brought within limits noted in Section 6.0. The moisture content shall preferably be on the wet side for potentially expansive soils.
- 16.4.** All material containing excessive moisture shall be dried by manipulating with harrows, cultivators, rotary speed mixers, or similar equipment, and all material containing insufficient moisture shall be sprinkled until the moisture content is within specified limits.
- 16.5.** Compaction shall be accomplished by means of machines of appropriate size, suitable for working a particular class of fill material and used during trial field compaction test. The granular fill shall be compacted with vibrating rollers or tampers. Self-propelled compactors similar to Caterpillar Models 825 or 825B with tamping feet or sheepfoot rollers shall be used for fine-grained materials like silts and clays.
- A uniform surface shall be maintained during compacting in order to ensure uniform compaction of the entire layer.
- 16.6.** Each layer shall be brought to the required density, and checked by appropriate field tests before proceeding with the next layer, if the material fails to meet the required compaction, rework/replace the material, or alter the construction methods as necessary to obtain the required compaction.
- Temporarily exposed surfaces and slopes of compacted fill for elevated roadway, and other embankments shall be protected from moisture change and erosion throughout the duration of their construction.
- 16.7.** Continuous testing of each layer shall be done until test results indicate a satisfactory method of constructing a consistently acceptable fill has been established. Subsequent layers shall be spot checked as deemed necessary by the soils Inspector to ensure the fill constructed continues to meet specified requirements as noted in Section 6.0 and 13.2. When testing indicates fill is not being placed correctly, continuous testing, in addition to necessary corrective work, shall be instituted. Continuous testing of each layer shall be done whenever a change in construction methods or materials occurs.
- 16.8.** Excess material shall be removed as directed, and finished to a tight uniform surface.

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**17.0 DEWATERING**

Normal dewatering required due to rainfall runoff during construction is the responsibility of the SOIL CONTRACTOR. The PURCHASER shall be responsible if any special dewatering is required due to high ground water table. Method of dewatering shall be approved by the Field Geotechnical Engineer.

**18.0 EROSION AND DUST CONTROL**

**18.1.** Upon completion of site preparation and earthwork, earth dikes and slopes which will remain unseeded shall be temporarily protected against erosion by applying a coat of liquid asphalt to the surface, as indicated below:

- Tightly bonded surfaces: 1.4 liter/m<sup>2</sup> (0.3 gal./S.Y.) of MC-30
- Loosely bonded fine-grained surfaces: 2.3 liter/m<sup>2</sup> (0.5 gal./S.Y.) of MC-70 or SC-70
- Loosely bonded coarse-grained surfaces: 3.6 liter/m<sup>2</sup> (0.8 gal./S.Y.) of MC-250 or SC-25Q

**18.2.** Natural vegetation shall be preserved as much as possible where it does not interfere with construction or with plant operations, or where delineated on the drawings. It shall not be preserved or planted in hazardous and thermal radiation areas.

**18.3.** Permanent slope stabilization shall be as shown on the project drawings.

**19.0 TOLERANCES**

Unless otherwise specified, tolerances for finished surfaces shall be as follows:

- Area grading for process and utility areas - (±) 1-1/4 in
- Area grading for offsite areas - (±) 2 in.
- Thickness of crushed aggregate layers - 5/8 in.

**20.0 QUALITY ASSURANCE (TESTS AND INSPECTION)**

**20.1.** All earthwork shall be inspected by the PURCHASER'S Inspector to determine compliance of the SOIL CONTRACTOR'S work with the detailed specified requirements. The Inspector shall evaluate and approve all stripping and foundation preparation measures in advance of placing compacted fill and direct any necessary undercutting and special stabilization measures which are required.

Tests shall be performed on each lift of fill. Any lifts failing to comply with the specified requirements shall be adjusted in natural water content as required,

additionally compacted, and retested to establish compliance of the total lift with the requirements. Daily reports shall be submitted as documentation of the quality of work performed and verification of any additional undercutting and special stabilization measures which are required.

- 20.2.** Field density tests of each layer of compacted soil shall be taken by an independent soil testing laboratory hired by the SOIL CONTRACTOR and approved by the PURCHASER. The frequency of testing shall be as follows:

Structural Fill	2 test per 5,000 sf (see Section 6.1.4)
General Fill	2 test per 10,000 sf (see Section 6.2.4)
Road Subgrade	1 test per 250 cy
Road Base Course	1 test per 250 cy
Earthwork using hand-operated Compaction Equipment	1 test per 100 cy
Earthwork in Confined Areas (trenches and ground-structures)	1 test per 100 cy
LNG Tank Containment Dike	1 test per 1000 cy

A minimum of two tests per lift shall be made. Field density tests shall be taken per ASTM D-1556 or ASTM D-2922 (Direct Transmission Method only) and ASTM D 3017.

**20.3. LABORATORY TEST**

Each or any of the following as required by the Engineer:

Particle Size Analysis:	ASTM D422, ASTM C136
Plasticity Index:	ASTM D4318
Moisture-Density Relation:	ASTM D1557
Moisture Content:	ASTM D2216

The frequency of laboratory testing shall be as follows:

- A. Particle Size Analysis & Moisture Density Relations
- 1 test per 2000 cy of fill
  - 1 test per 1,000 cy of Subbase & Base Materials



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B. Moisture Content

- 1 test per 10,000 sf of fill
- 1 test per 5,000 sf of Subbase & Base Materials

**20.4.** All test results shall be submitted directly from the independent testing laboratory to the Engineer with a copy to the PURCHASER.

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**SABINE PASS LNG TERMINAL PROJECT**  
**PROJECT SPECIFICATION**  
**FOR**  
**SOIL IMPROVEMENT**

**Project Specification for Soil Improvement**

JOB NO. 25027-001  
SPECIFICATION NO. REV.

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**PROJECT SPECIFICATION FOR SOIL IMPROVEMENT**

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**PROJECT SPECIFICATION  
FOR SOIL IMPROVEMENT**

**1.0 PURPOSE**

The purpose of this specification is to establish the technical requirements for the:

- (1) General site improvement in the tank, Pipe Rack, Process, Laydown and immediate areas
- (2) Stabilization of existing soft soils (natural and dredge spoil) beneath proposed earthen containment dikes

**2.0 CODES AND STANDARDS**

All geotechnical field and laboratory investigations, and construction shall conform to applicable American Society for Testing and Materials (ASTM) standards. If no standard is listed for a particular activity within this specification, the SOIL CONTRACTOR must follow the most applicable standards or other approved standard in performing the work, as approved by the PURCHASER.

All standards, unless noted otherwise, shall be the latest edition at the time of original issuance of this specification.

**3.0 EVALUATION OF TECHNICAL DATA**

The available factual geotechnical data are presented in Exhibit "D". The SOIL CONTRACTOR is responsible for evaluation of the available factual geotechnical data.

All PURCHASER-furnished data are provided for information only. The SOIL CONTRACTOR shall interpret the available data and shall perform any additional investigations or tests that are required to support his specific design and construction methods

**4.0 FINAL DESIGN PACKAGE**

Before proceeding with soil improvement, or as approved by the PURCHASER, the SOIL CONTRACTOR shall submit a complete and final soil improvement design package based on the conceptual design, Exhibit of the subcontract, this specification, and the results of any additional investigation and pre-production test program(s). The package must contain documents and drawings that describe the geometry, configuration, and design properties of the proposed soil modification. The package must show that the design meets the design criteria of Section 4.1, must include the calculations as described in Section 4.2 through 4.6, and must include proposed acceptance criteria as detailed in Section 4.7 through 4.10.

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## 4.1 Design Criteria

### 4.1.1 Soil Improvement

There are four principal design objectives for the Soil improvement design:

- (1) The first objective is that the treated materials in the general area of the tanks must be treated uniformly, over the specified Treatment Depth for that area such that a consistent and uniform strength of not less than 25 psi is achieved. The treated soils must meet two use criteria: (1) material excavated from the top of treatment to variable depths must be acceptable for use in constructing perimeter earthen retention dikes (material excavated to establish design rough grade, assumed no deeper than 7 ft depth, depending on bulking from soil improvement operations); (2) Achieve a minimum in-situ soil strength of 25 PSI.
- (2) The second objective is that Soil improvement under the proposed earthen containment dikes be sufficient to allow the unhindered and continuous construction of the dikes. Any limitations to the construction of the dikes shall be included with the SOIL CONTRACTOR'S design information submittals. SOIL CONTRACTOR must identify and include instrumentation (at a minimum vibrating wire piezometers, inclinometers and settlement platforms) and limits/criteria for monitored measurements and parameters during subsequent construction. A minimum in-situ soil strength of 25 PSI is required.
- (3) The third objective is to improve a block of soil of sufficient size to allow construction of each of two reinforced concrete sumps. The improved soil is to be designed to provide (1) lateral stability for a vertical cut; and (2) prevent bottom heave or instability (including overall buoyancy) over the planned area; and (3) inhibit differential and total settlements of sump walls to maintain containment integrity. The required strength of soil mix in the sump areas is to be determined by the SOIL CONTRACTOR as part of the final design of the soil mix. It is anticipated that the required strength will be a minimum of 25 PSI required for general soil improvement purposes. Refer to Section 4.4 for design considerations.
- (4) The fourth objective is to provide sufficient site improvement (soil stabilization and wick drain installations), that construction of the LNG containment dikes will proceed such that Primary Consolidation Settlement (as defined in "Foundation Analysis and Design, Third Edition, by Joseph E. Bowles, McGraw-Hill Book

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Company”) shall take place prior to Substantial Completion of the project, with the exception of any gaps in the dikes which may be required for construction access by Tank SOIL CONTRACTOR or PURCHASER but which shall be completed or reinstated prior to Cool Down of each Tank.

4.1.2 Specific Design Requirements

- (1) All soil-mix designs must be based on the 28-day strength of the stabilized soil.
- (2) The consistency of the IMPROVED SOIL, in terms of unconfined compressive strength and other engineering parameters, shall be maintained in accordance with the acceptance criteria throughout the entire depth of the improvement, spanning from the absolute top of the IMPROVED SOIL where it interfaces with the design rough grade, to the absolute bottom of the IMPROVED SOIL where it interfaces with the supporting/natural soil layer. Adequate measures must be taken during construction to ensure this consistency, and the upper and lower extremities of the IMPROVED SOIL must be verified during the acceptance testing.
- (3) Items discussed in following “design considerations” sections are to be incorporated into calculations formally submitted for approval

**4.2 Design Considerations - LNG Tank Area Soil Improvement**

Items that must be submitted with the calculations in the final design include, but are not limited to:

- 4.2.1 The target design unconfined compressive strength of the IMPROVED SOIL, and the anticipated variation in strength based on previous experience.
- 4.2.2 Description of test section and procedure for establishing proper mix.
- 4.2.3 Verification of all design aspects and parameters after completion and testing of the IMPROVED SOIL test sections.
- 4.2.4 Detailed drawings of the IMPROVED SOIL methodology, including depth, spacing, equipment and identification and control methodology.
- 4.2.5 A detailed description with sketches explaining the construction sequence and the final configuration of the site. The description must demonstrate that the final configuration of the site after soil improvement will be such that tank area rough grading and foundation construction (pile installation) can proceed without delay.

- 
- 4.2.6 References to “cement” as applied to stabilized or improved soil in the LNG Tank Areas is intended to refer to cement or any other suitable reagent which results in permanent improved strength meeting the technical requirements for IMPROVED SOIL and which is approved by PURCHASER.

#### **4.3 Design Considerations - Wick Drains Below Containment Dikes**

Within the context of the soil improvement effort, SOIL CONTRACTOR retains flexibility to sequence soil treatment and wick drain installations. If SOIL CONTRACTOR plans to install wick drains after general stabilization, then (as may be appropriate), confirm wick drains can be installed and perform through any stabilized/improved surficial soils (up to 14 ft thick). SOIL CONTRACTOR must submit the following items for PURCHASER review as part of the design submittal:

- 4.3.1 Wick-drain material specifications, test data and sources.
- 4.3.2 Sample of drain materials, 24-in. min. length
- 4.3.3 Size, type, weight, maximum pushing force and configuration of the installation rig.
- 4.3.4 Dimensions and length of mandrel
- 4.3.5 Details of Drain Anchorage
- 4.3.6 Drainage details.
- 4.3.7 Estimated times to achieve 50, 75, 90 and 100% consolidation of the treated zone, based on proposed dike configurations.
- 4.3.8 Details of wick drain test section(s)

#### **4.4 Design Considerations - LNG Sump**

SOIL CONTRACTOR must submit the following items for PURCHASER review as part of the design submittal;

- 4.4.1 Analyses confirming lateral stability of improved soil (deep soil mixed wall) during vertical excavation.
- 4.4.2 Define extent (plan area and depth) of the required soil deep soil mixing
- 4.4.3 Analyses confirming bottom stability (including overall buoyancy) of construction excavation (i.e. treatment is located outside of the plan area to be excavated).
- 4.4.4 Calculated total and differential settlements.

- 
- 4.4.5 The target design unconfined compressive strength of the IMPROVED SOIL, and the anticipated variation in strength based on previous experience,
  - 4.4.6 Verification procedures for all design aspects and parameters after completion and testing of the IMPROVED SOIL test sections.
  - 4.4.7 Detailed drawings of the IMPROVED SOIL methodology, including depth, spacing, equipment and identification and control methodology.
  - 4.4.8 A detailed description with sketches explaining the construction sequence and the final configuration of the site. The description must demonstrate that the final configuration of the site after soil improvement will be such that tank area rough grading and foundation construction (pile installation) can proceed without delay.

#### **4.5 Acceptance Criteria - LNG Tank Area Soil Improvement**

##### **4.5.1 General Requirements**

The acceptance criteria will define spacing and location of core runs, laboratory testing, and analysis methods. The acceptance criteria must be unambiguous, and must be based on, as a minimum, the 28-day unconfined compressive strength (target strength) obtained from core samples, and core recovery.

In order for a zone (as defined in Sections 4.5.2(3)) to be deemed acceptable, the analysis must prove that the improved soil does not contain continuous layers of untreated material, or material less than design strength.

##### **4.5.2 Minimum requirements of the Acceptance Criteria**

- (1) For cases where cement stabilization is selected for general soil improvement and no specific structural use (such as shallow surface soil improvement, or in the option of stabilization under an earthen retention dike), one core per 10,000 cubic feet of soil cement shall be conducted in full accordance with applicable ASTM procedures. A core is defined as a full-length continuous coring operation at a single location that extends from the top to the bottom of the improved region.
- (2) A minimum of five samples shall be collected per core, as selected by PURCHASER.
- (3) For the purpose of applying the acceptance criteria, each LNG tank area shall be divided into four zones of approximately equal



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treatment volume. Within each zone, the acceptance criteria for the core samples shall be:

- (a) Recovery shall be at least 90 percent for each core;
  - (b) RQD shall be at least 70 percent for each core;
  - (c) Within a single core, the sum length of unmixed or poorly-mixed soil regions or lumps that extend entirely across the diameter of the core shall not exceed ten percent of the recovered core length;
  - (d) The average ultimate 28-day unconfined compressive strength of all core samples from within any zone, determined using laboratory testing, should be greater than or equal to the target ultimate unconfined compressive strength on which SOIL CONTRACTOR'S design is based. For the purpose of calculating the average, samples exhibiting a laboratory strength more than twice the target strength shall be limited to a value equal to twice the target strength;
  - (e) Not more than five percent of the samples tested from within any zone shall exhibit a strength of less than sixty percent of the target unconfined compressive strength.
- (4) Alternative confirmation testing, including techniques not based on boreholes and core samples will be considered. Such techniques must (a) meet the intent to confirm full depth treatment; (b) confirm the improved soil meets the strength requirements; (c) be integrally incorporated into the test section program; (d) subject to review and approval based on site specific data and related to coring/testing; (e) must be based on a zone approach similar to item 3 above; and (f) must define acceptable quality of the test method and the limits of acceptable test results. Note that approval of alternatives is not guaranteed.

#### **4.6 Acceptance Criteria - Wick Drains Below Containment Dikes**

##### **4.6.1 Materials**

##### **(1) Wick Drains**

Wick drains shall consist of prefabricated, geocomposite band drains comprised of a channeled or studded core wrapped with a filter fabric. The core and filter shall be of polypropylene. The filter fabric shall fit tight around the core and shall be secured in a manner that will not impede flow into or within the drain core: The

width of the drain shall be 3,5 to 4 inches and the thickness shall be 0.1 to 0.15 in. The wick drain shall have adequate strength and other physical properties that will withstand installation stress and remain intact and fully functional under operating conditions including expected settlement and ground deformations. Sand drainage blanket or prefabricated horizontal strips drains shall be provided. PURCHASER shall submit samples of the wick drain along with specifications and test results as required herein.

(2) Filter Fabric

The filter shall be non-woven, polypropylene fabric with a maximum ACS of 212 pm (#70 U. S. Sieve), ASTM D 4751. The filter shall be capable of retaining fine silt size soil particles.

(3) Core Material

Core material shall be channeled or studded to permit efficient flow of water. The core shall be configured so that efficient flow of water will continue under all conditions of installation stress and expected ground settlement and lateral deformation.

4.6.2 Instrumentation

The wick drain design details are to include an instrumentation package to monitor pore pressure over depth in the soft soil deposits and lateral deformations. Instrumentation, which is to be installed before starting dike construction, shall include:

- (1) Vibrating wire piezometers (VWPZ), installed in cross-section arrays consisting at a minimum of four evenly spaced depths at three locations (centerline and each toe); arrays to be located at no more than 500 ft spacing along the length of the dike. Instrumentation for piezometers shall consist of a piezometer (at least 250 psi pressure range), signal cable, terminal box, data recorder, 4-level housing, slip couplings, and 1-inch diameter PVC pipe.

VWPZ instrumentation is to be installed with cabling protected and routed to one location for remote read out of the instrumentation. Read out box is to be provided to PURCHASER after installation by SOIL CONTRACTOR. Initial VWPZ readings to be taken by SOIL CONTRACTOR.

- (2) Inclinator casing installed in cross-section arrays at four (4) locations (2 at each toe and 2 located 50 ft outside of each dike toe); arrays to be located at no more than 300 feet spacing along the length of the dike; inclinometers to be long enough to extend

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and key into basal sand deposit. Instrumentation for inclinometers shall consist of quick connect inclinometer casing (85 mm diameter), data readout, probe, control cable (at least 100 feet), and top cap. One casing pulley to facilitate probe insertion shall be provided for all inclinometers.

SOIL CONTRACTOR to provide one (1) inclinometer instrument for use with installed inclinometer casing and associated software. Initial inclinometer reading to be taken by SOIL CONTRACTOR.

- (3) Settlement platforms, consisting of plates (at least 2 ft square) made of steel, a 1-in rod attached to the plate, and protective PVC sleeve around the rod. Platforms shall be installed at a maximum of 100 ft spacing along the length of the dike, at dike centerline and at each dike toe. Platforms to be fabricated similar to that shown on sketch provided in Section 2.8.5 of Exhibit C.

#### **4.7 Acceptance Criteria - LNG Sumps Area Soil improvement**

##### **4.7.1 General Requirements**

The acceptance criteria will define spacing and location of core runs, laboratory testing, and analysis methods. The acceptance criteria must be unambiguous, and must be based on, as a minimum, the 28-day unconfirmed compressive strength (target strength) obtained from core samples, and core recovery.

In order for a zone (as defined in Sections 4.7.2(3)) to be deemed acceptable, the analysis must prove that the improved soil does not contain continuous layers of untreated material, or material less than design strength.

##### **4.7.2 Minimum requirements of the Acceptance Criteria**

- (1) Where cement stabilization is selected for deep soil improvement in the LNG sumps area, a minimum of one core for each 6,000 cubic feet of soil cement shall be conducted in full accordance with applicable ASTM procedures. A core is defined as a full-length continuous coring operation at a single location that extends from the top to the bottom of the improved region.
- (2) A minimum of five samples shall be collected per core, as selected by PURCHASER.
- (3) For the purpose of applying the acceptance criteria, each LNG sump area shall be considered one zone. Within each zone, the acceptance criteria for the core samples shall be the same as stated in Section 4.5.2(3).

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- (4) Similar to section 4.5.2(4), alternatives to coring and sample testing will be considered for deep soil mix applications in the LNG sumps area. However the threshold of acceptable alternatives is higher since the LNG sumps are permanent structures and life/safety concerns apply. Therefore the level of testing and quality of test method is significantly more important

## **5.0 PRODUCTION WORK**

After the field verification program is completed and the STABILIZED SOIL design modified and/or proven, and after PURCHASER has reviewed and approved the final design, full production will immediately begin without delay. SOIL CONTRACTOR'S testing rig will be always available for testing the foundation for compliance, as detailed in the approved field execution plan.

### **5.1. Quality Control**

During construction of the STABILIZED SOIL, the SOIL CONTRACTOR shall maintain Quality Control (QC) in accordance with the approved quality control plan.

The quality control program will monitor field parameters that SOIL CONTRACTOR believes will be necessary to ensure a quality end product.

- (a) For cement stabilization: such as water/cement ratio for the slurry, slurry injection rate, depth of STABILIZED SOIL columns, equipment effort (e.g. "amperage"), rotation speed, advancement rate, field and laboratory test results, and any other critical/suitable parameter.
- (b) For alternatives to cement stabilization: equivalent levels of documentation and control, such as quantity of additives (lime, fly ash etc.), installation and mixing parameters, wick drain lengths, as-built installation details, settlement monitoring programs etc.
- (c) Program must include details for quality and conformance testing, coordinated with the applicable Acceptance Criteria.

These parameters shall be documented and submitted to PURCHASER during the course of construction on a weekly basis. These documents should be kept available for immediate inspection by PURCHASER, if requested.

For cement-based soil improvement, key installation parameters (as noted above) must be continuously computer monitored during soil improvement and digitally recorded. Installation records are to be available for PURCHASER to review and inspect. Copy of records is to be formally submitted at regular intervals.

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**5.2. Tolerances for Soil Improvement**

The tolerances of the columns (treatment limits), unless approved otherwise, shall be:

- 5.2.1. Level at top: Not less than the elevation shown on the approved construction drawings.
- 5.2.2. Position at top: Except in areas where 100% treatment is required, center of each column of STABILIZED SOIL to be within 1 foot of the position given on PURCHASER approved construction drawings.
- 5.2.3. Verticality: maximum deviation from vertical of 1 (horizontal) to 50 (vertical).

**5.3. Tolerances for Wick Drains**

- 5.3.1. The location of the drains shall not vary by more than 6 inches (150mm) from the locations indicated on the approved construction drawings.
- 5.3.2. The equipment shall be carefully checked for plumbness prior to advancing each drain, and must not deviate more than 1 inch per foot (80mm/m) from the vertical.

**5.4. Post-Production Acceptance Verification Testing**

- 5.4.1. After the STABILIZED SOIL is installed (or soil improved), SOIL CONTRACTOR will be required to perform post-production verification testing in accordance with the approved acceptance criteria. This will include, at a minimum, core drilling and logging, core recovery documentation, and unconfined compressive testing of select samples. Coring shall be conducted using a triple barrel sampler, or using a double barrel sampler with an additional inner sleeve or split barrel.
- 5.4.2. Core drilling shall extend to a minimum of 24 inches below the toe of the STABILIZED/improved SOIL column, in order to recover cores of the soil at and immediately below the bottom of the column, and to examine its condition and conduct any tests as necessary, with respect to the provisions of this specification.
- 5.4.3. In the LNG sump area, soil samples from below the column toe should be tested to demonstrate that the properties are consistent with the design assumptions.

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## 5.5 Non Conformance

In the event that a given zone does not conform to the final approved acceptance criteria as required in section 4.4, SOIL CONTRACTOR may elect to pursue one of the following options:

- (a) Perform an additional core or cores, with unconfined compression testing at SOIL CONTRACTOR expense, in the failing elements (i.e. from within the same "push") to help determine if the non-conforming results were due to faulty coring, sampling, or testing methods. All evidence shall be subject to the review and approval of the PURCHASER.
- (b) SOIL CONTRACTOR may submit evidence, in the form of daily QC records, if the non-conformance can be attributed to a localized deficiency in installation technique (e.g. a localized reduction in the cement content, an equipment breakdown, etc.). If PURCHASER is convinced that the non-conformance could be related to a documented installation deficiency, then all other soil-mixing columns or elements that exhibit a similar localized deficiency shall be considered non-conforming unless proved otherwise using cores provided at SOIL CONTRACTOR expense. If columns with localized installation deficiencies are not shown to be acceptable, they shall be replaced or repaired in an approved manner at SOIL CONTRACTOR'S expense.

If the SOIL CONTRACTOR-supplied evidence does not prove, to PURCHASER'S satisfaction, that the non-conformance is due either to faulty sampling or to a documented localized deficiency in Installation technique, then the ratio of non-conforming cores to total cores taken within that zone shall be considered representative of all production work within that zone, and appropriate repairs or replacements shall be provided at SOIL CONTRACTOR'S expense. For example, if 2 cores out of 10 total within a zone are not conforming, then 2 divided by 10, or 20 percent of the work in that zone must be repaired or replaced in an approved manner at SOIL CONTRACTOR'S expense.

## 5.6 Drainage and Waste Control

SOIL CONTRACTOR shall provide and otherwise ensure that the SOIL IMPROVEMENT operation is properly drained and that all areas are kept free of standing water. The drainage or dewatering system shall be approved in advance by PURCHASER.

All waste material shall be disposed of in accordance with procedures approved in SOIL CONTRACTOR'S field execution plan.

SOIL CONTRACTOR shall provide a drainage basin or drainage basins if required to meet the above requirement. Should contaminated water be encountered and should it exceed acceptable limits, SOIL CONTRACTOR shall provide oil water separator at no cost to PURCHASER.

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Wick drain installation is to provide positive drainage control, including design and construction of requisite structures to allow the continuous and rapid removal of water away from the construction site. The drainage must allow for access into the associated LNG tank locations (for concurrent and follow-on construction activities such as tank construction or embankment/dike construction).

**5.7. Waste Control and Working Platform**

SOIL CONTRACTOR shall provide a work platform above all soil improvement areas that will facilitate the soil improvement construction. The working platform may be constructed by mixing cement slurry, fly ash or lime into the ground surface or combined geofabrics, gravel, mats etc.

Excess material will be stored onsite at location(s) designated by PURCHASER. Should additional material be required to support construction equipment, it shall be provided by SOIL CONTRACTOR at no cost to PURCHASER, and shall be subject to review by PURCHASER.

Stabilized materials and spoil generated by the soil improvement process, which meets the requirements specified for soil improvement, may be left in place. However the materials must be suitable compacted, shaped and drained per the requirements of the contract and specifications.

**5.8. Access Roads**

Access to the site during early works will be via Duck Blind Road. Improvement of this road is PURCHASERS responsibility. Access from Duck Blind Road to the work site shall be developed as required by SOIL CONTRACTOR in order to perform his Work, and shall include any maintenance required to keep access passable.

**5.9. Surveying**

SOIL CONTRACTOR shall be responsible for layout of STABILIZED SOIL column locations and any other work activity requiring accurate surveying.

SOIL CONTRACTOR shall be responsible for surveying to establish line grade for such improvement system from established survey control points. SOIL CONTRACTOR shall provide labor, qualified surveyors and surveying equipment to perform the layout work and to provide as-built locations for each STABILIZED SOIL column to PURCHASER on a timely basis,

SOIL CONTRACTOR is responsible for providing surveyed coordinates and ground surface elevations for all subsurface investigations conducted during the course of the work.

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**6.0 Submittals**

Required submittals identified within this specification include the following:

- (1) Quality Control Plan, required before start of field work.
- (2) Test Section Execution Plan, submittal and approval required before starting construction of test sections (for soil stabilization and for wick drains).
- (3) Test Section Results Reports, submittal and approval required before start of production work.
- (4) Final Design Package, submittal and approval required before start of production work.
- (5) Execution Plan for production work, submittal and approval required before start of production work.



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**ATTACHMENT II**  
**DRAWING AND DATA REQUIREMENTS**

**1.0 GENERAL REQUIREMENTS**

SOIL CONTRACTOR shall submit all required drawings and data to PURCHASER in the manner and within the time limits specified below.  
All drawings and data shall be transmitted to the PURCHASER in the number of copies specified in this Appendix,

**2.0 EQUIPMENT/COMPONENT DRAWINGS AND DATA**

These drawings and data shall include, but not be limited to all basic design criteria, general arrangement and outline dimensions, utility requirements, electrical single line, schematic, P&IDs, control diagrams, maintenance and operating space requirements, cross sections and material lists, performance characteristic curves, calculations and completed Data Sheets. In addition to these items, the specific data requirements are as defined in the attached forms.

**3.0 RECOMMENDED SPARE PARTS**

SOIL CONTRACTOR shall submit complete recommended spare parts lists. The lists shall include:

- Part description and number (in sufficient detail to order, to include size, material, etc.);
- Recommended quantity of each spare part for FAT, SIT, installation/commissioning and for two years operation;
- Recommended quantities of special tools or instruments required for maintenance;
- Recommended quantities of consumable items;
- Unit cost of each part (note-sets, part, etc.);
- Supplier's name and other company information (address, etc.);
- Supplier's identification (shop order numbers, etc.) if applicable; and
- Validity and basis of price quotation.

SOIL CONTRACTOR shall state any necessary additional information required to fabricate or locate a part (serial numbers, tag numbers, etc.) to facilitate ordering.

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#### 4.0 DOCUMENT TRANSMITTAL ADDRESS

SOIL CONTRACTOR shall submit all documents to the following address:

PURCHASER:	Sabine Pass LNG, L.P.	with copy to:	Bechtel Corporation
Address:	717 Texas Avenue Suite 3100 Houston, TX 77002	Address:	Bechtel Corporation 3000 Post Oak Boulevard Houston, TX 77056
Attention:	Ed Lehotsky	Attention:	TBD
Telephone:	713-265-0206	Facsimile:	713-235-1610
Facsimile:	713-659-5459		

#### 5.0 DRAWING AND DATA REQUIREMENTS

SOIL CONTRACTOR will be required to comply with the following drawing and data requirements:

- A. Drawings and data submitted by SOIL CONTRACTOR shall be in electronic format (see Paragraph 5.0J). Where this is not possible, the drawings submitted by the SOIL CONTRACTOR will be electronically scanned and/or microfilmed, therefore, SOIL CONTRACTOR and any of his subsuppliers must submit the type of reproduction specified in the following paragraphs.
- B. AH drawings submitted must have light, clear backgrounds with sharp, opaque object, definition lines, and noncrowded dimensioning and lettering. Each drawing shall be suitable for microfilming at a 30 to 1 reduction and then enlarged to full size. Reproducibles shall be black-on-white, such as Xerox 1860 vellum. All reproducibles for originals, which are 11 inch by 17 inch and smaller may be photo copies on plain bond paper. Sepias are not acceptable.  
Drawings must be flat or rolled, not folded.
- C. Catalog cuts, typed material and other nonpictorial data shall be black-on-white. Images shall be sharp and clear to allow further legible reproduction by PURCHASER. Second, third, etc., generation copies are not acceptable.
- D. Documents not meeting the above requirements will be rejected for resubmittal and any added costs incurred by PURCHASER as a result of poor drawings will be backcharged to SOIL CONTRACTOR.
- E. Documents must show, in the lower right hand corner, job number, equipment tag number, PURCHASER'S subcontract number, drawing number, revision number, SOIL CONTRACTOR'S title, equipment service, PURCHASER'S and

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OWNER name, project title, long file save name with extension and project location.

- F. Documents with multiple sheets, such as calculations, must be resubmitted as a complete document. Revised single sheets will not be accepted
- G. Resubmittal of documents requires the same number of prints and reproducibles as the first submittal.
- H. SOIL CONTRACTOR shall not submit unchecked drawings, calculations, and data for review. All unchecked materials will be returned to the SOIL CONTRACTOR without review or acceptance with a request to resubmit on a completely checked basis. Any resulting price or schedule impact shall be the SOIL CONTRACTOR'S responsibility.
- I. When applicable, SOIL CONTRACTOR shall provide professional engineering stamps on appropriate documents.
- J. If the drawings and data submitted by the SOIL CONTRACTOR have been prepared using one of the following formats:

<u>Application Type</u>	<u>Standard Application</u>	<u>File Extension</u>
Word Processor	MS Word 97	.doc
Spreadsheet	MS Excel 97	.xls
Presentation Software	MS PowerPoint 97	.ppt
Data Base	MS Access 97	.mdb
CADD	Bentley Microstation 3E Re!	.dgn
	AutoCAD 14	.dwg
	Common data exchange format	.dxf
Graphic Format	TIFF Group IV	.tif
	TIFF LZW or JPEG Compressed	.jpg
Portable Document Format	HPGL/2	
	Adobe Acrobat 4.0	.pdf

SOIL CONTRACTOR shall also submit an electronic copy (in one of the media given below) of the drawings/data in the original electronic format. Acceptable media for the electronic copies is as follows:

- electronic file in original application format via the Bechtel Anonymous FTP or Bechtel email
- on CD-ROM using ISO 9660 or Joliet format and readable from Windows 95/98 or NT 4.0 based PC.

If SOIL CONTRACTOR does not use the above applications and cannot save the file in one of the above formats then SOIL CONTRACTOR shall save it or scan it into a portable document format. This portable document format is a .pdf file with UNCOMPRESSED ASCII text, (i.e. text searchable) created using Adobe Acrobat. Files from DOS or other platforms for which Adobe Acrobat writers are not available will need to be submitted in an ASCII text version along with a physical copy of the document, which will be scanned.

SOIL CONTRACTOR shall obtain Adobe Acrobat 3.0 or later for Windows (also available for Mac) to create the files from SOIL CONTRACTOR'S existing applications where SOIL CONTRACTOR does not use one of the above mentioned formats.

If SOIL CONTRACTOR does not use one of the above applications and obtaining Adobe Acrobat is not a viable option, the SOIL CONTRACTOR shall submit a list of the formats the SOIL CONTRACTOR uses.

## 6.0 DRAWING REVIEW

- A. Drawings and documents submitted for PURCHASER'S review will be returned to SOIL CONTRACTOR with two (2) stickers on each document. One (1) sticker will indicate the equipment tag number and PURCHASER'S SOIL CONTRACTOR print Jog number. The second sticker will indicate, by mark, one (1) of the following review codes:

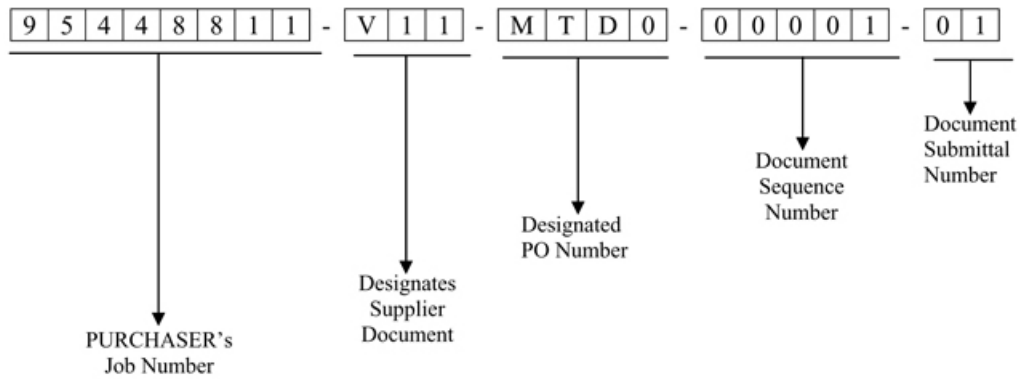
Code 1	Work may proceed.
Code 2	Revise and resubmit. Work may proceed subject to incorporation of changes indicated
Code 2b	Revise. Incorporate changes as indicated. Resubmittal not required. Work may proceed.
Code 3	Revise and resubmit. Work may not proceed.
Code 4	Review not required. Work may proceed.

Although work may proceed on receipt of a drawing with a Code 2 notation, SOIL CONTRACTOR must resolve the comments indicated, resubmit and obtain a Code 1 notation. Any drawing or document receiving a review Code 2 or 3 must be resubmitted until it achieves either a Code 1 or 4 review status. **Final invoice**

**will not be processed until all drawings and documentation requirements are fulfilled**

- B. All SOIL CONTRACTOR data will be logged in and assigned a unique log number by the PURCHASER. Subsequent submittals of the same documents will receive the same log number, which was assigned to the initial submittal, except that the submittal number will be changed.

For example, the initial drawing received would be assigned:



On subsequent submittals, only the submittal will change. If the SOIL CONTRACTOR incorporates this data into a manual, the data becomes part of the manual and the manual is toggled in and assigned its own log number. Code 1 or 4 approval of a manual does not eliminate the requirements for all individually submitted documents to receive a Code 1 or 4 review code.

Status and Log Sticker Sample

- ☐ 1. Work may proceed
- ☐ 2. Revise & Resubmit. Work may proceed. Subject to incorporation of Changes as indicated.
- ☐ 2b. Revise, Incorporate changes as indicated. Resubmittal not required. Work may proceed.
- ☐ 3. Revise & Resubmit. Work may not proceed.
- ☐ 4. Review not required. Work may proceed

Date Received:

IMPORTANT: Permission to proceed does not constitute acceptance or approval of design details, calculations, analysis, test methods or materials developed or selected by the supplier and does not relieve supplier from full compliance with contractual obligations.

DWG. Status

Signed

Date

BECHTEL

Equipment #

1. Reason for resubmittal
- ☐ Bechtel Design
  - ☐ Supplier Design
  - ☐ Supplier Correction
  - ☐ Client Required
  - ☐ Not Necessary

- 
- C. Drawings or data returned to SOIL CONTRACTOR for revision must be resubmitted within ten (10) working days after receipt. Resubmittals shall retain original number and be clearly marked with revision triangles enclosing the revision number. The revision triangles shall remain as a permanent part of the document. Correspondence accompanying revised drawings and data must show the SOIL CONTRACTOR print log number.

SOIL CONTRACTOR shall evaluate PURCHASER comments and incorporate them in a technically sound manner without affecting the progress of the Work. SOIL CONTRACTOR shall request clarification or suggest alternatives where questions of technical feasibility arise.

**SABINE PASS LNG TERMINAL PROJECT (PHASE 2)**  
**ENGINEER, PROCURE AND CONSTRUCT (EPC) LNG**  
**UNIT RATE SOIL CONTRACT**  
**EXHIBIT E**  
**SCOPE OF MANAGEMENT CONTRACTOR'S AUTHORITY**  
**AS AUTHORIZED REPRESENTATIVE**

**1. Introduction**

1.1 Management Contractor shall have the authority to act on behalf of PURCHASER as set forth below.

**2. Scheduling and Other Construction Planning**

2.1 Management Contractor is authorized to request and receive from SOIL CONTRACTOR information necessary to organize the Phase 2 Project, including the creation of Phase 2 Project master schedules.

2.2 Management Contractor is authorized to request and receive from SOIL CONTRACTOR information necessary to prepare cost reports, progress reports, construction forecasts, estimates of monthly cash requirements, estimates for contract progress payments, and such other reports and data as may be required by PURCHASER.

**3. Performance, Quality and Progress of SOIL CONTRACTOR's Work**

3.1 Management Contractor is authorized to request and review Permits and other licenses required by the Soil Contract to ensure SOIL CONTRACTOR is in compliance with its contractual requirements under the Soil Contract.

3.2 Management Contractor is authorized to review with SOIL CONTRACTOR and to comment on various procedures related to the performance of the Work, such as welding procedures, testing procedures, calibration procedures, or other procedures necessary for the performance of the Work and for which input from PURCHASER is required by the Soil Contract or otherwise is desirable.

3.3 Management Contractor is authorized to monitor the progress of SOIL CONTRACTOR's Work and observe all such Work at the Phase 2 Site. If requested by PURCHASER, Management Contractor is authorized to observe the performance of such Work at other locations.

3.4 Management Contractor is authorized to inspect the Work to the same extent PURCHASER is permitted to do so under the Soil Contract.

3.5 Management Contractor is authorized to issue to SOIL CONTRACTOR notices of non-conforming Work in accordance with the Soil Contract; if necessary and appropriate, Management Contractor may recommend to PURCHASER further action with respect to SOIL



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CONTRACTOR, including termination for default if SOIL CONTRACTOR fails to correct such non-conforming Work in accordance with the terms of the Soil Contract. Management Contractor is not authorized to issue such termination for default on behalf of PURCHASER.

3.6 Management Contractor is authorized to assist PURCHASER with the enforcement of warranties from SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors on the Phase 2 Project.

3.7 On behalf of and as requested by PURCHASER, Management Contractor also is authorized to perform expediting, quality surveillance and traffic services with respect to materials, equipment and supplies procured through SOIL CONTRACTOR. As used herein, quality surveillance services consists of the review, observation and evaluation of processes, procurement, manufacturing operations, quality control systems and programs to monitor SOIL CONTRACTOR compliance with contractual quality requirements. This does not include directing SOIL CONTRACTOR's Subcontractors.

3.8 Management Contractor is authorized to review and determine quantities of materials and equipment installed by SOIL CONTRACTOR and to assess the percentage completion of the Work.

3.9 Management Contractor is authorized to monitor SOIL CONTRACTOR's compliance, or lack thereof, with the Soil Contract Schedule. In the event SOIL CONTRACTOR is not in compliance with the Soil Contract Schedule, Management Contractor may issue a notice of non-compliance to SOIL CONTRACTOR and direct SOIL CONTRACTOR to comply with its schedule obligations, to the extent PURCHASER is permitted to do so under the Soil Contract. Management Contractor is not authorized to order acceleration of the Work if such acceleration would warrant a Change Order under the Soil Contract.

#### **4. Review of Items and Requests for Information Submitted by SOIL CONTRACTOR**

4.1 Management Contractor is authorized to receive and review items submitted by SOIL CONTRACTOR, including drawings, shop drawings, and samples. Management Contractor is authorized to request additional information regarding such items, reject such items and accept such items to the same extent PURCHASER is permitted to do so under the Soil Contract.

4.2 Management Contractor is authorized to receive and review requests for information ("RFIs") submitted by SOIL CONTRACTOR and to respond to such RFIs on behalf of PURCHASER.

#### **5. Safety and Security**

5.1 Management Contractor is authorized to monitor and direct compliance with the Phase 2 Project security obligations of SOIL CONTRACTOR to the same extent PURCHASER is permitted to do so under the Soil Contract.

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5.2 Management Contractor is authorized to monitor and direct compliance with Phase 2 Project safety obligations of SOIL CONTRACTOR. This includes the authority to issue instructions related to safety and to stop unsafe Work by SOIL CONTRACTOR to the same extent PURCHASER is permitted to do so under the Soil Contract. Management Contractor may recommend to PURCHASER the removal from the Phase 2 Project of personnel not complying with the safety requirements of the Phase 2 Project, but Management Contractor may not direct that such personnel be removed.

5.3 Management Contractor is authorized to instruct SOIL CONTRACTOR, its Subcontractors and Subsubcontractors to stop Work in any area where Hazardous Materials are discovered. Management Contractor is also authorized to instruct SOIL CONTRACTOR and its Subcontractors and Sub-subcontractors to leave and not re-enter any portion of the Phase 2 Site where Hazardous Materials are discovered.

5.4 Management Contractor is authorized to work with the safety representatives of SOIL CONTRACTOR for implementation by SOIL CONTRACTOR of specific programs designed to enhance safety awareness and promote accident and fire prevention.

## **6. Insurance**

6.1 Management Contractor is authorized to request and receive certificates of insurance, policies of insurance and any other information related to insurance from SOIL CONTRACTOR to the same extent PURCHASER is permitted to do so under the Soil Contract.

6.2 Management Contractor is authorized to request information and documents necessary to ensure that SOIL CONTRACTOR is in compliance with the insurance obligations of the Soil Contract.

6.3 Management Contractor is authorized to investigate claims made by any SOIL CONTRACTOR on any insurance policy provided by Management Contractor or PURCHASER with respect to the Phase 2 Project.

## **7. Payment of SOIL CONTRACTOR**

7.1 Management Contractor is authorized to request and receive estimates and forecasts of the monthly cash flow requirements of SOIL CONTRACTOR as necessary to fund the bank account designated for the payment of contractor invoices on the Phase 2 Project ("Company Contractor Payment Account"). SOIL CONTRACTOR shall comply with such requests.

7.2 Management Contractor is authorized to receive and review Invoices from SOIL CONTRACTOR and to provide its review and recommendations regarding such Invoices to PURCHASER.

7.3 Management Contractor is authorized to request and receive lien and claim waivers required by the Soil Contract.

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7.4 Management Contractor is authorized to request and receive other documents and documentation required by the Soil Contract to be included in Invoices or delivered with Invoices.

7.5 Management Contractor is authorized to make payment on Invoices from the Company Contractor Payment Account.

7.6 Management Contractor shall not be authorized to withhold any amounts invoiced by SOIL CONTRACTOR, except with the express written consent of or direction from PURCHASER.

**8. Completion of SOIL CONTRACTOR Work**

8.1 Management Contractor is authorized to work with SOIL CONTRACTOR to develop punchlists for the Work as required by the Soil Contract.

8.2 Management Contractor is authorized to identify and direct the correction of the Work (including Corrective Work) of SOIL CONTRACTOR that is not in compliance with the requirements of the Soil Contract to the same extent PURCHASER is permitted to do so under the Soil Contract.

8.3 Management Contractor is authorized to receive certificates or notices of completion from SOIL CONTRACTOR, to review and evaluate any such certificates and notices, and to make recommendations to PURCHASER regarding whether SOIL CONTRACTOR's Work is complete with respect to such notice or certificate. Management Contractor is not authorized to approve any such certificates or notices without the express written consent of or direction from PURCHASER.

**9. SOIL CONTRACTOR Claims and Requests for Change Orders**

9.1 Management Contractor is authorized to receive and review claims, by requests for Change Orders or otherwise, for additional time and additional compensation from SOIL CONTRACTOR with respect to the performance of the Work under the Soil Contract. With respect to such claims, Management Contractor is authorized to request additional information and to seek clarification of such claims, and if Management Contractor believes that the claim is not justified under the Soil Contract, Management Contractor is authorized to convey that belief to SOIL CONTRACTOR. Management Contractor is authorized to make recommendations to PURCHASER about accepting or rejecting such claims and regarding whether Management Contractor believes a Change Order is justified under the Soil Contract.

9.2 If instructed by PURCHASER to do so, Management Contractor is authorized to negotiate Change Orders with SOIL CONTRACTOR regarding claims. SOIL CONTRACTOR retains the right to finalize negotiations of any such Change Order directly with PURCHASER. Management Contractor is not authorized to execute Change Orders on behalf of PURCHASER.

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**10. Site Access, Coordination, Lay Down and Storage**

10.1 Management Contractor is authorized to coordinate access of SOIL CONTRACTOR and its Subcontractors and Subsubcontractors to and from the Phase 2 Site. As part of this coordination, Management Contractor is authorized to schedule and coordinate access to the construction dock, plant, roads, and other delivery routes for all SOIL CONTRACTOR and its Subcontractors and Subsubcontractors.

10.2 Management Contractor is authorized to coordinate and assign available space on the Phase 2 Site for lay down of materials, storage of materials and equipment and location of facilities, provided that Management Contractor first consults with PURCHASER regarding such lay down, storage and location. If SOIL CONTRACTOR believes that a change to the agreed assignment forms the basis for a Change Order, SOIL CONTRACTOR shall seek relief pursuant to the terms of General Condition 32, titled CHANGES.

**11. Permits and Other Governmental Requirements**

11.1 Management Contractor is authorized to assist PURCHASER in acquiring Permits required for the Phase 2 Project.

11.2 Management Contractor is authorized to request and receive information from SOIL CONTRACTOR necessary for PURCHASER to comply with Applicable Law and any requirements of any Governmental Instrumentality with respect to sales and use tax or other Taxes on the Phase 2 Project. Management Contractor does not have audit rights over the SOIL CONTRACTOR, and any information requested shall be solely related to the Soil Contract.

**12. Notice of Exercise of Authority Herein**

12.1 Management Contractor shall provide PURCHASER with a copy of any written instruction, directive, notice, or other document issued hereunder.

**13. PURCHASER Right to Request Withdrawal and Supersede**

13.1 If Management Contractor exercises its authority herein by issuing to SOIL CONTRACTOR a directive, instruction, or order; or by granting any permission; or otherwise; PURCHASER may request that Management Contractor withdraw or retract such directive, instruction, order, permission, or other exercise of authority, and Management Contractor shall do so within two (2) Days of any such request by PURCHASER.

13.2 PURCHASER has the right to supersede any exercise by Management Contractor of Management Contractor's authority granted herein.

**SABINE PASS LNG PROJECT (PHASE 2)**

**SOIL IMPROVEMENT CONTRACT**

**EXHIBIT "F"**

**FORM OF CONSENT AND AGREEMENT**

THIS CONSENT AND AGREEMENT (this "Consent and Agreement") dated as of [\_\_\_\_], is made and entered into by and among Remedial Construction Services, L.P., a corporation duly organized and validly existing under the laws of the State of [\_\_\_\_] (the "Project Party"), Sabine Pass LNG, L.P., a limited partnership duly organized and validly existing under the laws of the State of Delaware (the "Owner") and HSBC Bank U.S.A., National Association, in its capacity as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") under the Security Documents.

**WITNESSETH**

WHEREAS, the Owner, the lenders under the Credit Agreement referred to below and the Collateral Agent are parties to an [Amended and Restated Credit Agreement] dated on or about the date hereof (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 Owner for the purpose of financing the cost of Phase 1 and Phase 2 of the construction and operation of the Sabine Pass Facility and related expenses;

WHEREAS, the Project Party and Owner have entered into that certain Sabine Pass LNG Project (Phase 2) Engineer, Procure and Construct (EPC) LNG Unit Rate Soil Improvement Contract dated as of [Date] (as amended, restated, modified or otherwise supplemented from time to time, the "Assigned Agreement"), pursuant to which the Project Party shall engineer, procure, construct and manage the construction of the soil improvement for the Phase 2 Project (as defined in the Assigned Agreement); and

WHEREAS, as security for the loans made by the lenders under the Credit Agreement, the Owner has assigned, pursuant to the security documents entered into between the Owner 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 Credit 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 Government Authority, any Person succeeding to its functions and capacities.

2. Representations and Warranties. The Project Party hereby represents and warrants that:

(a) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada. The Project Party is duly qualified to do business and is in good standing in all jurisdictions where necessary in light of the business it conducts and the property it

owns and intends to conduct and own and in light of the transactions contemplated by the Assigned Agreement. No filing, recording, publishing or other act that has not been made or done is necessary or desirable in connection with the existence or good standing of the Project Party or the conduct of its business.

(b) The Project Party has the full corporate power, authority and right to execute, deliver and perform its obligations hereunder and under the Assigned Agreement. The execution, delivery and performance by the Project Party of this Consent and Agreement and the Assigned Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate and shareholder action. This Consent and Agreement and the Assigned Agreement have been duly executed and delivered by the Project Party and constitute the legal, valid and binding obligations of the Project Party enforceable against the Project Party in accordance with their respective terms, except as the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) The execution, delivery and performance by the Project Party of this Consent and Agreement and the Assigned Agreement do not and will not (i) require any consent or approval of the board of directors of the Project Party or any shareholder of the Project Party or of any other Person which has not been obtained and each such consent or approval that has been obtained is in full force and effect, (ii) violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award having applicability to the Project Party or any provision of the certificate of incorporation or by-laws of the Project Party, (iii) conflict with, result in a breach of or constitute a default under any provision of the certificate of incorporation, by-laws or other organic documents or any resolution of the board of directors (or similar body) of the Project Party or any indenture or loan or credit agreement or any other agreement, lease or instrument to which the Project Party is a party or by which the Project Party or its properties and assets are bound or affected or (iv) result in, or require the creation or imposition of, any Lien upon or with respect to any of the assets or properties of the Project Party now owned or hereafter acquired. The Project Party is not in violation of any such law, rule or regulation, order, writ, judgment, decree, determination or award referred to in clause (ii) above or its certificate of incorporation or by-laws or in breach of or default under any provision of its certificate of incorporation or by-laws or any material agreement, lease or instrument referred to in clause (iii) above.

(d) [No Government Approval is required for the execution, delivery or performance of this Consent and Agreement and the Assigned Agreement by the Project Party or for the exercise by the Collateral Agent of its rights and remedies.] [Each Government Approval required for the execution, delivery or performance of this Consent and Agreement and the Assigned Agreement by the Project Party and for the exercise by the Collateral Agent of its rights and remedies hereunder has been validly issued and duly obtained, taken or made, is not subject to any condition, does not impose restrictions or requirements inconsistent with the terms hereof or of the Assigned Agreement, is in full force and effect and is not subject to appeal. Each such Government Approval is listed on Exhibit A hereto.]

(e) This Consent and Agreement and (assuming the due authorization, execution and delivery by, and binding effect on, the Owner) the Assigned Agreement are in full force and effect.

(f) There is no action, suit or proceeding at law or in equity by or before any Government Authority, arbitral tribunal or other body now pending or to the best knowledge of the Project Party, threatened against or affecting the Project Party or any of its properties, rights or assets which (i) if adversely determined, individually or in the aggregate, could have a material adverse effect on its ability to perform its obligations hereunder or under the Assigned Agreement or (ii) questions the validity, binding effect or enforceability hereof or of the Assigned Agreement or any action taken or to be taken pursuant hereto or thereto or any of the transactions contemplated hereby or thereby.

(g) The Project Party is not in default under any material covenant or obligation hereunder or under the Assigned Agreement and no such default has occurred prior to the date hereof. To the best knowledge of the Project Party, the Owner is not in default under any material covenant or obligation of the Assigned Agreement and no such default has occurred prior to the date hereof. After giving effect to the assignment by the Owner to the Collateral Agent of the Assigned Agreement pursuant to the Security Documents, and after giving effect to the acknowledgment of and consent to such assignment by the Project Party, there exists no event or condition which would constitute a default, or which would, with the giving of notice or lapse of time or both, constitute a default under the Assigned Agreement. The Project Party and, to the best knowledge of the Project Party, the Owner have complied with all conditions precedent to the respective obligations of such party to perform under the Assigned Agreement.

(h) This Consent and Agreement and the Assigned Agreement constitute and include all agreements entered into by the Project Party relating to, and required for the consummation of, the transactions contemplated by this Consent and Agreement and the Assigned Agreement.

3. Consent and Agreement. The Project Party hereby acknowledges and agrees that:

(a) The Project Party hereby acknowledges and irrevocably consents to the assignment by the Owner of all its right, title and interest in the Assigned Agreement to the Collateral Agent as collateral security for the payment and performance of the Owner of its obligations under the Credit Agreement.

(b) Provided that an event of default by the Owner shall have occurred and be continuing pursuant to the loan documents executed in accordance with the Security Agreement, the Collateral Agent and any assignee thereof shall be entitled to exercise any and all rights of the Owner under the Assigned Agreement in accordance with their respective terms and the Project Party shall comply in all respects with such exercise. Without limiting the generality of the foregoing and provided that an event of default by the Owner shall have occurred and be continuing pursuant to the loan documents executed in accordance with the Security Agreement, the Collateral Agent and any assignee thereof shall have the full right and power to enforce directly against the Project Party 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 Owner under the Assigned Agreement.

(c) The Project Party will not, without the prior written consent of the Collateral Agent, take any action to (i) cancel or terminate, or suspend performance under, the Assigned Agreement (except as expressly provided in the Assigned Agreement), (ii) exercise any of its rights set forth in the Assigned Agreement to cancel or terminate, or suspend performance under, the Assigned Agreement unless the Project Party shall have delivered to the Collateral Agent written notice stating that it intends to exercise such right on a date not less than 60 days after the date of such

notice, provided it has such right under the Assigned Agreement, specifying the nature of the default giving rise to such right (and, in the case of a payment default, specifying the amount thereof) and permitting the Collateral Agent to cure such default by making a payment in the amount in default or by performing or causing to be performed the obligation in default, as the case may be, (iii) except for change orders, amend, supplement or otherwise modify the Assigned Agreement (as in effect on the date hereof), (iv) sell, assign or otherwise dispose of (by operation of law or otherwise) any part of its interest in the Assigned Agreement or (v) petition, request or take any other legal or administrative action which seeks, or may reasonably be expected, to rescind, terminate or suspend or amend or modify the Assigned Agreement or any part thereof. In furtherance of the foregoing clause (ii), the Project Party agrees that, notwithstanding anything contained in the Assigned Agreement to the contrary, upon the occurrence of a default under the Assigned Agreement that cannot by its nature be cured by the payment of money, the Project Party will not cancel or terminate the Assigned Agreement if, and for so long as, the Collateral Agent shall be diligently seeking to cure such default or otherwise to institute foreclosure proceedings, or otherwise to acquire the Owner's interest in the Assigned Agreement, and the Project Party shall grant the Collateral Agent a reasonable period of time to cure such default upon the occurrence of such foreclosure or acquisition.

(d) 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 Owner, a copy of each material notice, request or demand given by the Project Party pursuant to the Assigned Agreement.

(e) In the event that the Collateral Agent or its designee(s) succeeds to the Owner's interest under the Assigned Agreement as permitted under the Security Documents, the Collateral Agent or its designee(s) shall assume liability for all of the Owner's obligations under the Assigned Agreement; provided however, that such liability shall not include any liability for claims of the Project Party against the Owner arising from the Owner's failure to perform during the period prior to the Collateral Agent's or such designee(s)' succession to the Owner's interest in and 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 Owner under the Assigned Agreement and the assignment of the Assigned Agreement by the Owner to the Collateral Agent pursuant to the Security Agreement shall not give rise to any duties or obligations whatsoever on the part of any of the Secured Parties owing to the Project Party.

(f) Upon the exercise by the Collateral Agent of any of the remedies as permitted 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 Owner under the Assigned Agreement to any purchaser or transferee of the Project, if such purchaser or transferee shall assume all of the obligations of the Owner under the Assigned Agreement. Upon such assignment and assumption, the Collateral Agent shall be relieved of all obligations under the Assigned Agreement arising after such assignment and assumption.

(g) In the event that (i) the Assigned Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding involving the Owner or (ii) the Assigned Agreement is terminated as a result of any bankruptcy or insolvency proceeding involving the Owner 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 Owner as and to the extent required under the 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 Owner 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.

(h) 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 assume or be liable under the Assigned Agreement (as contemplated in subsection (e), (f) or (g) above), liability in respect of any and all obligations of any such party under the Assigned Agreement shall be limited solely to such party's interest in the Project (and no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto).

(i) All references 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 Agent under this Consent and Agreement may be taken by any such designee or transferee.

4. Arrangements Regarding Payments. All payments to be made by the Project Party to the Owner under the Assigned Agreement shall be made in lawful money of the United States, directly to the Collateral Agent, for deposit into the Revenue Account (Account No. [COLLATERAL AGENT'S ACCOUNT NUMBER]), at the Principal Office of the Collateral Agent 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 to the Project Party for application by the Collateral Agent in the manner contemplated in Section [ ] of the Credit Agreement, and shall be accompanied by a notice from the applicable Project Party stating that such payments are made under the Assigned Agreement.

5. Miscellaneous.

(a) No failure on the part of 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. The remedies provided herein against the Project Party are cumulative and not exclusive of any remedies provided by law.

(b) All notices, requests and other communications provided for herein and under the Assigned Agreement (including, without limitation, any modifications of, or waivers or consents under, this Consent and Agreement) shall be given or made in writing (including, without limitation, by telex or telecopy) delivered to the intended recipient at the "Address for Notices" specified below its name on the signature pages hereof or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Consent and Agreement, all such communications shall be deemed to have been duly given when transmitted by telex or telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as aforesaid.

(c) This Consent and Agreement may amended or modified only by an instrument in writing signed by the Project Party, the Owner 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 assigns of each of the Project Party, the Owner, 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, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and (b) 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, OWNER AND THE COLLATERAL AGENT 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, EXCEPT FOR DISPUTES ARISING OUT OF OR RELATING TO THE ASSIGNED AGREEMENT WHICH WILL CONTINUE TO BE GOVERNED EXCLUSIVELY BY THE PROVISIONS OF THE ASSIGNED AGREEMENT. EACH OF THE PROJECT PARTY, OWNER AND THE COLLATERAL AGENT 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, OWNER, THE COLLATERAL AGENT AND THE SECURED PARTIES, AND NO PERSON (OTHER THAN THE PARTIES HERETO, 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, OWNER 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 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 [\_\_\_\_\_].

REMEDIAL CONSTRUCTION SERVICES, L.P.

By \_\_\_\_\_  
Title:

Address for Notices:

[\_\_\_\_\_]

Facsimile: [\_\_\_\_\_]

Telephone: [\_\_\_\_\_]

Attention: [\_\_\_\_\_]

HSBC BANK U.S.A. NATIONAL ASSOCIATION,  
as Collateral Agent

By \_\_\_\_\_  
Title:

Address for Notices:

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

Facsimile: [\_\_\_\_\_]

Telephone: [\_\_\_\_\_]

Attention: [\_\_\_\_\_]

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Acknowledged and Agreed:

SABINE PASS LNG, L.P.,

By \_\_\_\_\_  
Title:

Address for Notices:

[\_\_\_\_\_]
[\_\_\_\_\_]
[\_\_\_\_\_]

Facsimile: [\_\_\_\_\_]
Telephone: [\_\_\_\_\_]
Attention: [\_\_\_\_\_]

GOVERNMENT APPROVALS

## CHANGE ORDER

PROJECT NAME: Sabine Pass LNG Receiving, Storage and Regasification Terminal

CHANGE ORDER NUMBER: SP/BE-0030

OWNER: Sabine Pass LNG, L.P.

DATE OF CHANGE ORDER: May 16,2006

CONTRACTOR: Bechtel Corporation

SCHEDULE IMPACTS RELATED TO  
HURRICANES KATRINA, RITA AND WILMA

DATE OF AGREEMENT: December 18, 2004

The Agreement between the Parties listed above is changed as follows:

With reference to Article 5.3 .A. and Attachment E of the Agreement, Owner and Contractor agree that the Guaranteed Substantial Completion Date is changed to December 20,2008, and is a final resolution of all issues, Time Extension, and other claims as to the effects of Hurricanes Katrina, Rita and Wilma on the Guaranteed Substantial Completion Date. Owner and Contractor agree to mutually cooperate to execute additional change order(s) concerning additional activities and expenditures required to accelerate the Work to meet the Target Bonus Date.

The Parties acknowledge that the Time Extension of the Guaranteed Substantial Completion Date as granted herein is a commercial concession by the Owner, and was not derived by application of Article 6.8A.1 of the Agreement. The Parties further acknowledge this Change Order does not set a precedent nor amend the Agreement, and any future claims for a Force Majeure event Time Extension will utilize the methodology prescribed in Article 6.8A.1. Accordingly, the Parties further acknowledge that any subsequent Time Extension for a Force Majeure event, assessed in accordance with Article 6.8A.I, will not necessarily result in a Time Extension of the Guaranteed Substantial Completion Date beyond this revised date of December 20,2008.

Adjustment to Contract Price:

The original Contract Price was	\$ 646,936,000
Net change by previously authorized Change Orders	\$ 65,806,941
The Contract Price prior to this Change Order was	8712,742,941
The Contract Price will be increased by this Change Order in the amount of	\$ 0.00
The new Contract Price including this Change Order will be	\$ 712,742,941

**Adjustment to dates in Project Schedule**

The following dates are modified:

The Target Bonus Date will be unchanged.

The Target Bonus Date as of the date of this Change Order therefore is 1,095 Days following the NTP.

The Guaranteed Substantial Completion Date will be Dec 20, 2008.

The Guaranteed Substantial Completion Date as of the date of this Change Order therefore is therefore 1,355 Days following NTP.

Adjustment to other Changed Criteria: Not Applicable

Adjustment to Payment Schedule: No Change Adjustment to

Minimum Acceptance Criteria: No Change

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Adjustment to Performance Guarantees: No Change

Adjustment to Design Basis: No Change

Other adjustments to liability or obligation of Contractor or Owner under the Agreement: No Change

This Change Order shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in this Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for such change.

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the original Agreement without exception or qualification, unless noted in this Change Order. Except as modified by this and any previously issued Change Orders, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives.

/s/ Charif Souki  
\* Charif Souki  
Chairman

May 26, 2006  
Date of Signing

/s/ Stan Horton  
\* Stan Horton  
President & COO Cheniere Energy

May 30, 2006  
Date of Signing

/s/ Keith Meyer  
\* Keith Meyer  
President Cheniere LNG

May 26, 2006  
Date of Signing

/s/ Ed Lehotsky  
\* Ed Lehotsky  
Owner Representative

May 17, 2006  
Date of Signing

/s/ C. Asok Kumar  
Contractor

C. Asok Kumar  
Name

Project Director  
Title

June 1, 2006  
Date of Signing

\* Required Owner signature – Mr. Horton may sign on behalf of Mr. Souki during Mr. Souki's absence.

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CHANGE ORDER

PROJECT NAME: Sabine Pass LNG Receiving, Storage and Regasification Terminal

CHANGE ORDER NUMBER: SP/BE-0032

OWNER: Sabine Pass LNG, L.P.

DATE OF CHANGE ORDER: May 16, 2006

CONTRACTOR: Bechtel Corporation

COST AND SCHEDULE IMPACTS RELATED TO  
HURRICANES KATRINA, RITA AND WILMA

DATE OF AGREEMENT: December 18, 2004

The Agreement between the Parties listed above is changed as follows:

Contractor and Owner agree to implement and incorporate the following changes to the Agreement for all of the impacts caused by hurricanes Katrina, Rita and Wilma (the "Hurricanes") and to accelerate the Work to achieve the Ready for Cool Down dates, the Target Bonus Date and the Forecasted Substantial Completion date stated herein.

Adjustment to Contract Price:

The original Contract Price was	\$646,936,000
Net change by previously authorized Change Orders	\$ 65,806,941
The Contract Price prior to this Change Order was	\$712,742,941
The Contract Price will be increased by this Change Order in the amount of	\$ 15,924,000 <sup>(1)(2)</sup>
The new Contract Price including this Change Order will be	\$728,666,941

The Contract Price adjustment of \$ 15,924,000 set forth in this Change Order is hereinafter referred to as the "*Contract Price Adjustment*." The breakdown of the Contract Price Adjustment is attached hereto as Attachment A. The Contract Price Adjustment remains subject to modification only in accordance with items (1) and (2) below, which will be documented under separate Change Orders:

- (1) Part of the Contract Price Adjustment is based on wage, benefit and incentive increases necessary for Contractor to attract qualified craft and supervision required to accelerate the Work to achieve the Ready for Cool Down dates, the Target Bonus Date and Forecasted Substantial Completion date stated herein. The Parties agreement with respect to these wage, benefit and incentive increases is listed in paragraphs 3.1 through 3.7 of Attachment A (hereinafter referred to as the "*Revised Compensation*"). If the Contractor does not pay out the full Revised Compensation package, the Contract Price Adjustment will be lowered in the amount of the difference in the amount paid and the amount listed in paragraphs 3.1 through 3.7, and the adjustment will be reflected in a subsequent Change Order. On the other hand, if the Revised Compensation package is not sufficient to attract qualified craft and supervision personnel to accelerate the Work to achieve the Ready for Cool Down dates, the Target Bonus date and the Forecasted Substantial Completion date stated herein, the Parties will revise the Revised Compensation Package as necessary through a separate Change Order.
- (2) The Contract Price Adjustment excludes the settlement between Owner and Contractor for the recovery of costs that are incurred by Subcontractors and Sub-subcontractors from the Hurricanes and the acceleration of the Work required herein. Such settlements shall be jointly negotiated and settled by Contractor and Owner. The negotiated settlements with Subcontractors and Sub-subcontractors will be set forth in subsequent Change Orders between Owner and Contractor. There will be no Contractor markup on any such negotiated settlements.



- (3) Section 11.9 of the Agreement is replaced with the following language, and all references in the Agreement to Section 11.9 shall be understood to refer to the following:
- 11.9 Schedule Bonus. In the event Contractor achieves Target Completion on or before the Target Bonus Date, Contractor shall earn a schedule bonus in the amount of Twelve Million U.S. Dollars (U.S.\$12,000,000) (the "*Schedule Bonus*"). If Target Completion is not achieved on or before the Target Bonus Date, the amount of such Schedule Bonus payable to Contractor shall be decreased by an amount of One Hundred Twenty-five Thousand U.S. Dollars (U.S.\$125,000) for each Day which passes after the Target Bonus Date for the first fifteen (15) Days until Target Completion occurs, and then by an amount of Three Hundred Thousand U.S. Dollars (U.S.\$300,000) for each Day which passes after the Target Bonus Date for the next ten (10) Days until Target Completion occurs, and then by an amount of Four Hundred Seventy-five Thousand U.S. Dollars (U.S.\$475,000) for each Day which passes after the Target Bonus Date for the last fifteen (15) Days until Target Completion occurs, and then down to a Schedule Bonus amount of zero (U.S.\$0). If Contractor earns the Schedule Bonus or any portion thereof, Contractor shall invoice Owner for the applicable amount of such Schedule Bonus in the next Invoice cycle under this Agreement, and Owner shall pay Contractor the applicable amount of such Schedule Bonus within the time required under this Agreement for making payments of amounts invoiced by Contractor. The failure of Contractor to achieve Target Completion by the Target Bonus Date shall not create a separate liability for Contractor under this Agreement.

**Adjustment to dates in Project Schedule:**

- Contractor shall develop a new Level HI Schedule to accelerate the Work to meet the following dates, and when reviewed by Owner, shall implement such Level III Schedule:
  - Tank 1 - Ready For Cool Down - February 18, 2008
  - Tank 2- Ready For Cool Down - March 23, 2008
  - Tank 3- Ready For Cool Down - July 1, 2008
  - Target Bonus Date- April 3, 2008
  - forecasted Substantial Completion- November 8, 2008 ("*Forecasted Substantial Completion*")

Qualification: The Parties acknowledge that the achievement of the dates specified above for Ready for Cool Down for Tanks 1, 2 and 3, the Target Bonus Date and the Forecasted Substantial Completion date is predicated upon the settlement between Owner and Contractor with respect to item (2) above.
- The following dates are modified:
  - The Target Bonus Date will be unchanged.
  - The Target Bonus Date as of the date of this Change Order therefore is 1,095 Days following the NTP or April 3, 2008.
  - The Guaranteed Substantial Completion Date will be unchanged.
  - The Guaranteed Substantial Completion Date as of the date of this Change Order is therefore 1,355 Days following NTP or December 20, 2008. The revised Guaranteed Substantial Completion Date of December 20, 2008 is a final resolution of all issues and claims arising out of this Change Order and the Hurricanes and is not predicated on any settlement of any Subcontractor or Sub-subcontractor claims under item (2) above or any other issues.

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Adjustment to Payment Schedule, etc.:

All payments related to this Change Order shall be separately invoiced, paid and reconciled as follows:

- Owner agrees to pay Contractor the Contract Price Adjustment in three (3) equal payments that will be due and payable on May30,2006, September 30,2006 and February 28,2007.

Adjustment to other Changed Criteria:

Adjustment to Minimum Acceptance Criteria: No Change

Adjustment to Performance Guarantees: No Change

Adjustment to Design Basis: No Change

Other adjustments to liability or obligation of Contractor or Owner under the Agreement:

**Other Requirements and Information:**

With respect to item (1) above for the Revised Compensation, on a quarterly basis Contractor's payment records related to the wages, benefits and incentives paid out with respect to paragraphs 3.1 to 3.7 of Attachment A will be available for Owner's review on Site. Such records shall be in the form of Contractor's standard records, as may be reasonably required by Owner to validate Contractor's payments of such wages, benefits and incentives in accordance with Attachment A. The amounts paid with respect to item (1) shall be reconciled on a quarterly basis and once agreed in writing shall not be subject to further review.

In addition, Contractor and Owner's senior executives will meet once a quarter to review progress of the Work compared to the revised Level III Schedule, current issues, mitigation efforts and proactive actions to be taken. In addition, they will discuss whether any additional requirements outside of this Change Order or the Agreement should be implemented, which may or may not cause the Contract Price and/or Project Schedule to be adjusted, and if such additional requirements are implemented, they will be implemented through a Change Order.

Contractor agrees to use its best efforts to obtain information and documentation from affected Subcontractors in connection with the cost and schedule impacts from the Hurricanes in a timely manner and provide same to Owner.

The Parties' agreement hereunder with respect to the events covered by this Change Order shall not prejudice or waive any rights the Parties' may have under the Agreement with respect to any future events of Force Majeure (including hurricanes and named tropical storms), if any.

Subject to the adjustments (if any) with respect to items (1) and (2) under the heading "Adjustment to Contract Price" and the Qualification under the heading "Adjustments to dates in Project Schedule," this Change Order shall constitute a full and final settlement and accord and satisfaction of all of the effects of the change as described in this Change Order upon the Changed Criteria and shall be deemed to compensate Contractor for such change.

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the original Agreement without exception or qualification, unless noted in this Change Order. Except as modified by this and any previously issued Change Orders, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives.

/s/ Stacy C. Horton  
Charif Souki, Chairman

July 6, 2006  
Date of Signing

/s/ C. Asok Kumar  
Contractor

C. Asok Kumar  
Name

/s/ Stan Horton  
\*Stan Horton, President & COO Cheniere Energy

July 6, 2006  
Date of Signing

/s/ Keith Meyer  
\*Keith Meyer, President Cheniere LNG

July 5, 2006  
Date of Signing

/s/ Ed Lehotsky  
\*Ed Lehotsky, Owner Representative

May 17, 2006  
Date of Signing

Project Director  
Title

July 26, 2006  
Date of Signing

**\* Required Owner Signature - Mr. Horton may sign on behalf of Mr. Souki during Mr. Souki’s absence.**

Attachment A Cost and  
Acceleration Impacts from Hurricanes

Description		Cost in 1000's
Cost Impacts from Hurricanes and Acceleration Costs		Bechtel Cost
1	Cost Impacts	\$ 753.2
2	Acceleration Costs (includes FNM OX, Additional Equip/Consumables, Productivity Impacts)	\$ 2,584.6
Subtotal Cost Impacts and Acceleration Costs		\$ 3,337.8
Forecast Increase in Wage, Benefit and Incentive Increases (Subject to Quarterly Review as Provided in Change Order)		
3	Wage, Benefit and Incentive Increases	
3.1	Add \$1.30/hr to Craft Labor Base Pay (Includes Direct, Indirect and Start-up (\$18.00/hr to \$19.30/hr for Journeyman)	\$ 1,873.6
3.2	Add \$0.50/hr to Craft Labor for Incentives (Completion Bonus \$ 1.00 to \$1.50)	\$ 720.6
3.3	Adjust all crafts to 4x10 & 1x8 Schedule (Adds Premium Pay on 6.4% of total hours)	\$ 1,373.2
3.4	Adjustment to Taxes and Insurance (P/R Adds)	\$ 736.6
3.5	Increase Amount of Qualified Workers on \$35/Day Per Diem from 40% to 100%	\$ 3,152.7
3.6	Increase Per Diem by \$ 15/Day for Qualified Workers (\$35/Day to \$50/Day, based on Days worked)	\$ 2,251.9
3.7	Allowance for 7 Day week Per Diem (\$50/Day, for all craft, 2 Days per week)	\$ 2,478.0
<b>Subtotal Increase in Wage, Benefit and Incentive Increases</b>		<b>\$ 12,586.6</b>
<b>TOTAL</b>		<b>\$ 15,924.4</b>

SCHEDULE D-I  
CHANGE ORDER FORM

PROJECT NAME: Sabine Pass LNG Receiving, Storage and Regasification Terminal  
OWNER: Sabine Pass LNG, L.P.  
CONTRACTOR: Bechtel Corporation  
DATE OF AGREEMENT: December 18, 2004

CHANGE ORDER NUMBER: SP/BE-0033  
DATE OF CHANGE ORDER: May 31, 2006  
Bundle of Miscellaneous Changes # 3

The Agreement between the Parties listed above is changed as follows:

- A) Submerged Combustion Vaporizers (SCV) Control System Changes** (Ref C/O SP-BE-013) The Owner requested a scope change to replace the SCV Programmable Logic Controller (PLC) controls with Distributive Control System (DCS) controls. The increase in price of \$1,271,602.00 includes the engineering, procurement and construction for the change, as follows:
1. Sixteen (16) PLC's and their associated HMI are deleted from the SCV equipment supplier's scope of supply. The SCV supplier will supply logic drawings and descriptions which define the PLC logic that will now be implemented by the DCS.
  2. Additional DCS hardware costs are based on 1) ninety eight (98) Input/Output (I/O) points per each SCV, 2) sixteen (16) remote DCS I/O cabinets (one cabinet for each SCV) and 3) four processors (four SCVs per each processor).  
A portable wireless laptop operator station is provided for local indication of DCS data during startup and maintenance activities.  
The I/O hardware will not include mandated 20% spare capacity.
  3. Supply and installation of the required cable tray and fiber optic cable for communications from the sixteen (16) SCV I/O cabinets to the four (4) DCS processors located in the Main Control Equipment Room.
  4. Engineering hours for DCS configuration and programming, DCS graphics, DCS FAT, wiring termination drawings, and instrument index input are included.
  5. As directed by Owner, engineering hours for loop diagrams are excluded from the price. The requirement for production of instrument loop diagrams for all the loops wired to the SCV remote I/O cabinets have been deleted from Contractor's scope of engineering as directed by Owner's request.
- B) Boil Off Gas (BOG) Compressor Knock-out Drum Piping Revisions** (Ref C/O SP-BE-020) The Owner requested Contractor to change the piping and instrumentation scope as indicated on P&ID M6-24-00720 Rev.OOD and Ltr. No. SP-BE-C-125, dated 11/4/05. The increase in price of \$68,710.00 includes the engineering, procurement and construction for the requested piping and instrument changes.
- C) LNG Tank Basin and Sump Change**
- The Owner requested Contractor to proceed with increasing the LNG Tank Basin in size to 100' x 100' x 1.8' (deep) basin (129,000 gallon capacity), in each for each of the three LNG Tank areas. The basin bottom is to be bare earth with stone surface and sloped along the perimeter of the basin area. The pump pit is to be located anywhere within the basin and sized (reduced) to accommodate the sump pump only. The increase in price of \$50,200.00 includes the engineering, procurement and construction for the requested change.
- D) Additional Owner Construction Trailer**
- The Owner has requested Bechtel to spot, setup and maintain a 12 x 60 mobile office trailer for the Owner Operations Group from June 2006 to June 2007.

SCHEDULE D-I  
CHANGE ORDER FORM

PROJECT NAME: Sabine Pass LNG Receiving, Storage and Regasification Terminal  
OWNER: Sabine Pass LNG, L.P.  
CONTRACTOR: Bechtel Corporation  
DATE OF AGREEMENT: December 18, 2004

CHANGE ORDER NUMBER: SP/BE-0033  
DATE OF CHANGE ORDER: May 30, 2006  
Bundle of Miscellaneous Changes # 3

The increase in price of \$34,348.00 includes the following additional Work by Contractor:

- Locate and position the trailer supplied by Owner
- » Hook up and supply power to the trailer for 12 months (June 2006-2007)
- Furnish and install holding tanks, pump and water storage tank for bathroom
- s Fill the water tanks (non-potable) and pump septic tanks for 12 months
- ® Supply five sets of used office furniture
- Trailer cleaning (2 hrs/wk for 12 months)
- ® Building occupancy permit added onto existing temporary building permit
- E) Tank Subcontract Material **Adjustment**

As set forth in Article 7.1.E and Attachment EE, Rev. 1, Section 3, of the Agreement, the Contract Price is subject to an upward adjustment to reflect the LNG tank material escalation costs incurred, invoiced and paid from December 18, 2004 through March 31, 2006 (Invoice 25027-605010, item 6c attached). Accordingly, an adjustment in the amount of \$3,044,983.00 shall be added to the Contract Price by this Change Order.

**Reference the following attached documents:**

- 1) Payment Milestones-Bundle Change Order Number Three (3)
- 2) Trend Summary Bundle Change Order Number 3
- 3) Trends T-0020c (PLC to DCS), T-0086b (BOG Compressor K.O. Drum revisions), T-0121 (LNG Tank Sump Changes), T5005 (Operations Trailer) and ME-0306 (Material Escalation for LNG Tanks).
- 4) PLC to DCS Documents- Ltr. SP-BE-C-084 dated 7/15/05  
Unilateral C/O SP-BE- 013 Drwg's. 5512-DWG-V-IC-02 Rev 2 (6 shts) Drwg's. 5512-DWG-V-IC-09 Rev 0 (2 shts) Drwg's. 5512-DWG-V-IC-10 Rev 2 (8 shts) Drwg. ETSW05195-3-001 Rev A (Sht 1 of 2)
- 5) BOG Compressor Knock-out Drum Documents- Ltr. SP-BE-C-125 dated 11/04/05  
P&ID M6-24-00720 Rev. 00D  
Unilateral C/O SP-BE-013  
P&ID M6-24-00720 Rev. 000
- 6) LNG Tank Sumps- Ltr. SP-BE-C-164 dated 03/14/06  
Drwg. CG-000-00028 Rev. 2
- 7) Operations Group Trailer- E mail dated April 12, 2006, re addition of Operations Trailer at SPLNG site

SCHEDULE D-I  
CHANGE ORDER FORM

PROJECT NAME: Sabine Pass LNG Receiving, Storage and Regasification Terminal  
OWNER: Sabine Pass LNG, L.P.  
CONTRACTOR: Bechtel Corporation  
DATE OF AGREEMENT: December 18, 2004

CHANGE ORDER NUMBER: SP/BE-0033  
DATE OF CHANGE ORDER: May 30, 2006  
Bundle of Miscellaneous Changes # 3

**Adjustment to Contract Price**

The original Contract Price was	\$ 646,936,000
Net change by previously authorized Change Orders (SP-BE-001 to 032)	\$ 81,730,941
The Contract Price prior to this Change Order was	\$ 728,666,941
The Contract Price will be (increased) by this Change Order in the amount of	\$ 4,469,843
The new Contract Price including this Change Order will be	\$ 733,136,784

**Adjustment to dates in Project Schedule**

The following dates are modified:

The Target Bonus Date will be unchanged (April 3, 2008).

The Target Bonus Date as of the date of this Change Order therefore is 1,095 Days following the NTP.

The Guaranteed Substantial Completion Date will be unchanged (December 20, 2008).

The Guaranteed Substantial Completion Date as of the date of this Change Order therefore is therefore 1,355 Days following NTP.

Adjustment to other Changed Criteria: Not Applicable

Adjustment to Payment Schedule: See attached "Payment Milestone - Bundle Change Order Three (3) - Miscellaneous Changes dated 5/27/06.

Adjustment to Minimum Acceptance Criteria: No Change

Adjustment to Performance Guarantees: No Change

Adjustment to Design Basis: Per attached drawings/revisions.

Other adjustments to liability or obligation of Contractor or Owner under the Agreement: No Change

This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the change as described in this Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for such change.

SCHEDULE D-1.  
CHANGE ORDER FORM

PROJECT NAME: Sabine Pass LNG Receiving, Storage and Regasification Terminal

**CHANGE ORDER NUMBER:** SP/BE-0033

DATE OF CHANGE ORDER; May 30, 2006

OWNER: Sabine Pass LNG, L.P.

Bundle of Miscellaneous Changes # 3

CONTRACTOR: Bechtel Corporation

DATE OF AGREEMENT: December 18, 2004

Upon execution of this Change Order by Owner and Contractor, tile above-referenced change shall become a valid and binding part of the original Agreement without exception or qualification, unless noted in this Change Order, Except as modified by this and any previously issued Change Orders, all other terms and conditions of the Agreement shall remain in full force and effect This Change Order is executed by each of the Parties' duly authorized representatives.

/s/ Stan Horton

\* Charif Souki  
Chairman

/s/ C. Asok Kumar

Contractor

July 6, 2006

Date of Signing

C. Asok Kumar

Name

/s/ Stan Horton

\* Stan Horton  
President & COO Cheniere Energy

Project Director

Title

July 6, 2006

Date of Signing

July 20, 2006

Date of Signing

/s/ Keith Meyer

\* Keith Meyer  
President Cheniere LNG

July 5, 2006

Date of Signing

/s/ Ed Lehotsky

\* Ed Lehotsky  
Owner Representative

June 29, 2006

Date of Signing



CERTIFICATION BY CHIEF EXECUTIVE OFFICER PURSUANT TO  
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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) 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
  - d) 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 weaknesses 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: August 4, 2006

/s/ Charif Souki

Charif Souki  
Chief Executive Officer

CERTIFICATION BY CHIEF FINANCIAL OFFICER  
PURSUANT TO 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) 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
  - d) 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 weaknesses 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: August 4, 2006

/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 June 30, 2006 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 result of operations of the Company.

/s/ Charif Souki

Charif Souki  
Chief Executive Officer  
August 4, 2006

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 June 30, 2006 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 result of operations of the Company.

/s/ Don A. Turkleson

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Don A. Turkleson  
Chief Financial Officer  
August 4, 2006