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www.calhounport.com

**PORT OF PORT LAVACA - POINT COMFORT**

*Providing Calhoun County Industries with Direct Deep Draft Access to Global Markets*

INTEROFFICE MEMORANDUM

To: Charles R. Hausmann, CPA, Port Director  
Forrest E. Hawes, Deputy Port Director

From: David M. Knuckey, P.E., Interim Director, Engineering Services

Date: May 1, 2020

Subject: NH3 Tank Roof Repairs and Recoating Project  
Change Order No. 2

Attached you will find the proposed Change Order No. 2 and accompanying documents for review.

The original contract included an allowance of \$50,000.00 to repair and spot-recoating of the tank stairwell and handrails. Upon further inspection by INEOS personnel and the Contractor it was found the problems were much more extensive. In addition it was found the toe plate of the tank roof handrail was installed originally to close to the tank roof allowing debris to accumulate and trap moisture and accelerate the rate of corrosion of the tank roof in many areas. The plan is to raise the toe plate to comply with OSHA safety standards which will allow the free passage of debris and not allow moisture to accumulate in these areas.

Since the change order will increase the Contract Price by more than 25% and in accordance with the Texas Water Code, Section 60.410(b) the Contractor has agreed to the proposed Contract Price increase and the document is attached hereto.

It is my recommendation and that of INEOS personnel to execute this change order to increase the Contract Price by **\$138,150.00** and increase the Contract Time by **38 Calendar Days**.

Attachments

C: Commissioners, Calhoun Port Authority  
David Roberts, Port General Counsel  
Steven (Rhyan) Staten, Mechanical Integrity / Reliability Supervisor  
INEOS Nitriles Green Lake



**PORT OF PORT LAVACA - POINT COMFORT**

*Providing Calhoun County Industries with Direct Deep-Draft Access to Global Markets*

**CHANGE ORDER**

Change Order No. 02

Date: May 6, 2020

PROJECT: NH3 Tank Roof Repairs and Recoating

PROJECT NUMBER: N/A

CONTRACTOR: Blastco Texas, Inc.

This contract shall be modified to include the changes listed below and the Contract Price/Contract Time shall be changed to reflect these modifications.

1. Increase the Contract Price for the abrasive blast & coat spiral staircase in accordance with attached Scope of Work. \$93,297.00. Differing Site Conditions.
2. Increase the Contract Price for the increased Scope of Work to abrasive blast, coat and repair of NH3 tank handrails in accordance with the attached Scope of Work. \$94,853.00 - \$50,000.00 = \$44,853.00. Differing Site Conditions. Cost in excess of the \$50,000.00 Bid Allowance.
3. Increase the Contract Time by 32 Working Days (38 Calendar Days) for the additional Work.

Decrease in Contract Price:	\$ 0.00
Increase in Contract Price:	<u>\$ 138,150.00</u>
Net <u>Increase/Decrease</u> in Contract Price:	\$ 138,150.00 (32.6% increase)
Original Contract Price:	\$ 423,433.00
Total Amount of Previous Change Orders:	\$ 22,599.08
Amount of this Change Order:	<u>\$ 138,150.00</u>
Revised Contract Price:	\$ 584,182.08 (38% total increase)

Notice to Proceed Date:	March 31, 2020
Original Contract Time:	90 Calendar Days
Previous Changes in Contract Time:	0 Calendar Days
Calendar Days for this Change Order:	38 Calendar Days
Revised Contract Time:	128 Calendar Days
Revised Required Substantial Complete Date:	August 21, 2020

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This Change Order is accepted and executed by the **Calhoun Port Authority** (Owner) and **Blastco Texas, Inc.** (Contractor) as signed by their duly authorized representative below.

Calhoun Port Authority  
(Owner)

Blastco Texas, Inc.  
(Contractor)

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name/Title: J. C. Melcher, Jr. / Chairman

Name/Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

[Approved by Board Action on May 6, 2020]

attachments: Blastco Texas Letter Dated April 29, 2020.  
Contractors Consent to Contract Price Greater than 25%

**CALHOUN**  
**Port Authority**  
POINT COMFORT, TEXAS \* USA

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**PORT OF PORT LAVACA - POINT COMFORT**

*Providing Calhoun County industries with Direct Deep-Draft Access to Global Markets*

April 29, 2020

Blastco Texas, Inc.  
16201 Wood Drive  
Channelview, TX 77530-2729  
Attn.: Frank Marroquin

Re: NH3 Tank Roof Repairs and Recoating Project  
Increase in Contract Price Greater Than 25%

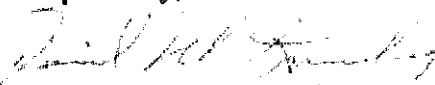
Dear Frank,

In accordance with the Texas Water Code, Section 60.410(b), "A contract cannot be increased by more than twenty five percent (25%) or decreased by more than eighteen percent (18%) without the consent of the Contractor."

In that the planned execution of Change Order No. 02 of the aforementioned contract will increase the contract by thirty eight percent (38%) Blastco Texas, Inc. is required to consent to this increase.

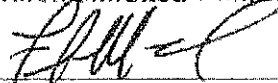
Please acknowledge receipt and consent to the increase in the Contract Price of more than 25% and return at your earliest convenience.

Respectfully,



David M. Knuckey, P.E.  
Interim Director, Engineering Services  
Calhoun Port Authority

Blastco Texas, Inc. (Contractor), hereby acknowledges and consents to the increase in the Contract Price of the aforementioned Contract of more than 25%

Signed: 

Name: Frank Marroquin

Title: Project Manager



**Blastco Texas**  
16201 Wood Drive  
Channelview, TX 77530, US  
Phone: 281-590-3200  
Fax: 281-590-3234

[www.tfwarren.com](http://www.tfwarren.com)

April 27, 2020

**Change Order 001**

David M. Knuckey  
Director, Engineering Services  
Calhoun Port Authority  
2313 F.M. 1593 South  
PO Box 397  
Point Comfort, Texas 77978  
Ph: 361-788-3508  
Email: [dmk@calhounport.com](mailto:dmk@calhounport.com)

**Re: Port NH3 Tank – Change Order**

**5 Minute Escape Packs, Additional Belzona, Abrasive Blast & Coat of Stairs, Handrail Rehab**

1. **Scope:** Acquisition of four (4) EBA 5-minute escape packs. **Pricing: \$2,656.08**
  
2. **Scope:** Due to additional pits discovered during the abrasive blasting process on NH3 Tank roof, an additional quantity of belzona and labor is required to facilitate repairs. **Pricing: \$19,943.00**
  
3. **Scope:** Abrasive blast & coat spiral staircase.
  - a. Perform surface prep of SSPC SP6 via wet blasting of spiral staircase.
  - b. Apply one (1) primer coat of Carbomastic 15 @ up to 10 mils DFT to prepped surfaces.
  - c. Apply one (1) topcoat of Carboxane 2000 @ 2-3 mils DFT. to spiral staircase surface.**Pricing: \$93,297.00**

4. **Scope:** Abrasive blast & coat and repair of NH3 Tank Handrails.
- a. Remove and replace one (1) damaged section of handrail via welding.
  - b. Raise two (2) sections of toe plate up to .25".
  - c. Perform surface prep of SSPC SP6 via wet blasting of handrail.
  - d. Apply one (1) primer coat of Carbomastic 15 @ up to 10 mils DFT to prepped surfaces.
  - e. Apply one (1) topcoat of Carboxane 2000 @ 2-3 mils DFT. to handrail surface.

**Pricing: \$94,853.00 - \$50,000.00 = \$44,853.00**

**TOTAL: \$160,749.08**

**Duration: 32 Working Days**

**Conditions:**

- **No mobilization charges have been included, as price is based on completing additional work with concurrent scope of work.**
- **Price based on a 6-man crew – 1 Foreman: 4 Blaster/Painter: 1 Laborers.**
- **Price based on working six 10-hour days per week.**
- **Price based on standard safety requirements such as basic, site specific and confined space.**
- **Our proposal excludes the coating of such items as: electrical conduit, galvanizing, stainless steel, insulation jacketing and or concrete unless otherwise indicated in the scope of work.**
- **Our proposal excludes soil excavation, weed control, lifting of components / piping, or removal of permanent structures to address areas that would otherwise be inaccessible.**
- **Price is based on any current coating being free of lead and asbestos and other heavy metals containing material.**
- **Any delays waiting for permits will be billed cost plus 10%.**
- **Any excessive delays resulting from inspection hold points will be billed cost plus 10%.**
- **We have not included for a dedicated Safety, QC person, or dedicated fire watch.**
- **Our proposal allows for QC inspection based on SSPC-PA2 guidelines.**

- Price is not based on union or prevailing wage rates.
- Price excludes all federal, state, county, municipal, and other taxes imposed by law.
- Price is based on current 2020 rates for materials, labor, and equipment and does not factor in any price escalation. Should pricing for these items increase after the terms of our proposal, the proposal will need to be revised.
- Price is valid for 90 days.
- Payment terms Net 30 days.

If you have any questions, please do not hesitate to call.

Sincerely,

*Val Joseph*

Val Joseph

Estimator

Blastco Texas Inc.

Direct: 281-456-3879

[Val.Joseph@tfwarren.com](mailto:Val.Joseph@tfwarren.com)

INVOICE  
2489195

Page: 1

**MAGID**

Safety at work™

Magid Glove and Safety Manufacturing Co. LLC  
Remit Payment to: P.O. BOX 95081  
Chicago, IL 60694-5081  
PHONE: (773)384-2070 FAX:(773)384-6677  
E-mail: mail@magidglove.com

COPY

SOLD TO: **BLASTCO TEXAS, INC.**  
16201 WOOD DR  
CHANNELVIEW TX 77530

SHIP TO: **BLASTCO**  
SAME 16201 WOOD DR  
UNLESS CHANNELVIEW TX 77530  
INDICATED

PLEASE REFER TO THIS INVOICE NUMBER | INVOICE NO | INVOICE DATE | TERMS | FRT TRM | SALESPERSON |  
WITH YOUR REMITTANCE ==> | 2489195 | 4/01/20 | NET 30 | DEL | KENNEDY T. |

CUSTOMER ORDER NO. | SHIPPED VIA | PICK ORD. NO. | CUSTOMER NO. | SHIP TO |  
BLT000434 | Fed Ex Frt Tier B or | 3723294 | 169827 | 1 |

STYLE NO.	DESCRIPTION	QUANTITY ORDERED	BACK ORD.	QUANTITY SHIPPED	UNIT PRICE	EXTENDED PRICE
975638	EBA 5 MINUTE ESCAPE SPECIAL ORD NO CANCELS/RETURNS *** Please see new payment remittance address above.	4 EA		4	595.20	2380.80

HNDL CHG	NET TOTAL	TAX RATE	TAX	FREIGHT	TOTAL
	2,380.80	6.25%	148.80		2529.60

Faxed at: 7:35:41 @ 4/01/20

No. of LINES 1

A 1 1/2% PER MONTH FINANCE CHARGE  
WILL BE ADDED ON TO ALL PAST DUE  
INVOICES. ALL UNEARNED CASH DISCOUNTS  
WILL BE CHARGED BACK.

4/8 CD

RECEIVED  
APR 06 2020  
BY: .....

VENDOR# \_\_\_\_\_ SITE \_\_\_\_\_ DATE 4/8  
PO \_\_\_\_\_ JOB 4745 C.CODE \_\_\_\_\_  
TAX Y - N STATE \_\_\_\_\_ INT'L \_\_\_\_\_  
ITEM \_\_\_\_\_  
NOTES Rate is less than P.O.  
PH/APPROVAL \_\_\_\_\_

MATERIAL = \$ 2,529.60  
M/U = \$ 126.48  
\$ 2656.08





**“NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER.”**

**ASSIGNMENTS**

**Effective Date:** May \_\_\_\_, 2020

**Assignor:** NST Point Comfort Holdings, LLC  
277 Park Avenue, 45<sup>th</sup> Floor  
New York, New York 10172

**Assignee:** Max Midstream Texas, LLC  
1800 Post Oak Boulevard  
6 BLVD Place, Suite 450  
Houston, Texas 77056.

**Consideration:** Ten and no/100 Dollars (\$10.00), the terms and conditions listed below and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Assignor and the payment of an administrative fee to the Calhoun Port Authority upon the execution of this Assignment in the amount of \$2,000.00.

**Assignment of Ground Lease:** Assignor, for the consideration stated above, assigns to Assignee the Ground Lease Assignor received from the Calhoun Port Authority, dated April 13, 2011 and as amended on August 1, 2011 in the Amendment to Ground Lease Agreement, and as further amended in the Second Amendment to Ground Lease Agreement executed on September 28, 2015. Assignee shall be subject to all restrictions, conditions and obligations set forth in the original Ground Lease, attached hereto as Exhibit “A”, the Amendment to Ground Lease, attached hereto as Exhibit “B” and the Second Amendment to Ground Lease Agreement, attached hereto as Exhibit “C”, all Exhibits being incorporated herein for any and all purposes, herein referred to collectively as “Ground Lease”.

All the terms and conditions in the Ground Lease shall remain in full force and effect. This assignment from NST Point Comfort Holdings, LLC to Max Midstream Texas, LLC is conditioned upon Max Midstream Texas, LLC assuming all the terms, restrictions, conditions and obligations of Assignor under the Ground Lease.

**Assignment of Lease and Easement Agreement of General Cargo Dock Racks and Pipelines:** Assignor, for the consideration stated above, assigns to Assignee the Lease and Easement Agreement of General Cargo Dock Racks and Pipelines Assignor received from the Calhoun Port Authority, dated October 1, 2015 and filed of record with the Calhoun County Clerk, Calhoun County, Texas under Instrument Number 145620. Said Lease and Easement being to the Liquid Pier Dock, as properly described in the exhibits, and not to the General Cargo Dock. Assignee shall be subject to all restrictions, conditions and obligations set forth in the Lease and Easement Agreement of General Cargo Dock Racks and Pipelines, attached hereto as

Exhibit “D”, incorporated herein for any and all purposes, and herein referred to as “Lease and Easement”.

All the terms and conditions in the Lease and Easement shall remain in full force and effect. This assignment from NST Point Comfort Holdings, LLC to Max Midstream Texas, LLC is conditioned upon Max Midstream Texas, LLC assuming all the terms, restrictions, conditions and obligations of Assignor under the Lease and Easement.

**Assignment of Underground Pipeline Easement Agreement:** Assignor, for the consideration stated above, assigns to Assignee the Underground Pipeline Easement Agreement Assignor received from the Calhoun Port Authority, dated November 4, 2019. Assignee shall be subject to all restrictions, conditions and obligations set forth in the Underground Pipeline Easement Agreement, attached hereto as Exhibit “E”, incorporated herein for any and all purposes, and herein referred to as “Underground Pipeline Easement”.

All the terms and conditions in the Underground Pipeline Easement shall remain in full force and effect. This assignment from NST Point Comfort Holdings, LLC to Max Midstream Texas, LLC is conditioned upon Max Midstream Texas, LLC assuming all the terms, restrictions, conditions and obligations of Assignor under the Underground Pipeline Easement.

**Assignment of Loading Arm Lease:** Assignor, for the consideration stated above, assigns to Assignee the Loading Arm Lease. Assignor received from the Calhoun Port Authority, executed on December 16, 2015. Assignee shall be subject to all restrictions, conditions and obligations set forth in the Loading Arm Lease, attached hereto as Exhibit “F”, incorporated herein for any and all purposes, and herein referred to as “Loading Arm Lease”.

All the terms and conditions in the Loading Arm Lease shall remain in full force and effect. This assignment from NST Point Comfort Holdings, LLC to Max Midstream Texas, LLC is conditioned upon Max Midstream Texas, LLC assuming all the terms, restrictions, conditions and obligations of Assignor under the Loading Arm Lease.

This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[Signatures follow on next page]

**ASSIGNOR:**

**NST POINT COMFORT HOLDINGS, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE:**

**Max Midstream Texas, LLC**

By: \_\_\_\_\_

Todd Edwards, President

**CONSENTED TO BY CALHOUN PORT AUTHORITY:**

\_\_\_\_\_  
J. C. Melcher, Board Chairman  
Calhoun Port Authority

ATTEST:

\_\_\_\_\_  
Tony A. Holladay, Board Secretary  
Calhoun Port Authority

THE STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

**CERTIFICATE OF ACKNOWLEDGEMENT**

Before me, the undersigned Notary Public, on this day personally appeared \_\_\_\_\_, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and considerations expressed and doing so as \_\_\_\_\_ of NST Point Comfort Holdings, LLC.

Given under my hand and seal of office on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

THE STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

**CERTIFICATE OF ACKNOWLEDGEMENT**

Before me, the undersigned Notary Public, on this day personally appeared Todd Edwards, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and considerations expressed and doing so as President of Max Midstream Texas, LLC.

Given under my hand and seal of office on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

THE STATE OF TEXAS

§  
§  
§

COUNTY OF CALHOUN

**CERTIFICATE OF ACKNOWLEDGEMENT**

Before me, the undersigned Notary Public, on this day personally appeared J.C. Melcher, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and considerations expressed and doing so as Board Chair of Calhoun Port Authority.

Given under my hand and seal of office on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public in and for the State of Texas

## GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Lease") is entered as of April 13, 2011 (the "Effective Date") between Calhoun Port Authority, a body politic and a governmental subdivision of the State of Texas (hereinafter referred to as "Port"), and Hawk Field Services, LLC, an Oklahoma limited liability company authorized to do business in the State of Texas (hereinafter referred to as "Hawk", and together with Port, the "Parties" and each a "Party").

### RECITALS

**WHEREAS**, Hawk desires to lease a portion of land owned by Port, such land being more fully described in Exhibit "A", which is attached hereto and incorporated herein for any and all purposes; and

**WHEREAS**, Port intends to lease to Hawk 10.68 acres of land for the purpose of operating a petroleum condensate storage and multi-modal distribution on the Port's property described in Exhibit "A" ("Condensate Terminal"); and

**WHEREAS**, the Port has determined that this lease to Hawk is authorized by law and constitutes a valid public use; and

**WHEREAS**, the parties desire to set forth the terms and conditions under which Hawk will lease Port's property from Port;

**NOW, THEREFORE**, the Parties hereto, in consideration of the premises and covenants herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, each intending to be legally bound, agree as follows:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

### AGREEMENTS

In consideration of the mutual agreements herein set forth, Port and Hawk agree as follows:

**Article 1. Definitions.** As used in this Lease, the following terms (in addition to the terms defined elsewhere herein), and whether singular or plural thereof, shall have the following meanings when used herein with initial capital letters:

"Award" shall mean any payment or other compensation received or receivable from or on behalf of any governmental authority or any person or entity vested with the power of eminent domain for or as a consequence of any Taking.



**"Business Day"** shall mean a day other than Saturday, Sunday or legal holiday recognized in Port's Tariffs.

**"Conditions Precedent"** shall mean:

- (a) Receipt of all approvals required by relevant regulatory agencies, including the Texas Commission on Environmental Quality and United States Coast Guard relating to the Condensate Terminal;
- (b) Receipt of approval of all modifications to Port's operating permits, including spill protection and prevention plan, stormwater discharge plan, and emissions to air required by relevant regulatory agencies;
- (c) Receipt of Port's approval to changes in environmental, health and safety procedures relating to the Condensate Terminal;
- (d) Receipt by Hawk of Port's most recent environmental assessment of the Leased Premises; and
- (e) Performance of such environmental assessments and tests prepared by qualified experts selected by Hawk showing no conditions unacceptable to Hawk, in Hawk's sole discretion.

**"Event of Default"** shall have the meaning set forth in Section 16.01 hereof.

**"Fiscal Year"** shall mean the twelve month period beginning July 1<sup>st</sup> of any given year and ending June 30<sup>th</sup> of the following year.

**"Force Majeure"** shall mean:

- (a) acts of God, landslides, lightning, earthquakes, hurricanes, tornadoes, blizzards and other adverse and inclement weather, fires, explosions, floods, acts of a public enemy, wars, blockades, insurrections, riots or civil disturbances, including but not limited to interruption of navigation, acts of terrorism, or other disruption of normal business conditions;
- (b) labor disputes, strikes, work slowdowns, or work stoppages;
- (c) orders or judgments of any federal, state or local court, administrative agency or governmental body, if not the result of willful or negligent action of the Party relying thereon;
- (d) power failure and outages affecting the Premises; and



- (e) any other similar cause or event, provided that the foregoing is beyond the reasonable control of the Party claiming Force Majeure.

**“Hazardous Materials”** shall have the meaning ascribed to it in Section 4.04 hereof.

**“Initial Improvements”** shall mean the following work which may be performed by Hawk, in Hawk’s sole discretion:

- (a) Refurbish existing roads and infrastructure as required to accommodate over-the-road truck deliveries of petroleum condensate;
- (b) Refurbish existing truck racks;
- (c) Install 2-6 new truck racks;
- (d) Convert the existing 2 million gallon tank to condensate storage;
- (e) Refurbish, upgrade, extend and connect the existing feeder pipeline from the truck racks to the storage tank;
- (f) Install a new condensate product pipeline from the storage tank to the Port’s Liquid Cargo Ship Terminal (Piers #1 and #2); Liquid Cargo Barge Terminal (Piers #4 and #5); and Multi-Purpose Dock;
- (g) Supply an emission destruction unit and safety appliance certified by the US Coast Guard at mutually agreeable locations;
- (h) Install facilities to accommodate two up to 100,000 barrel barges as temporary floating storage alongside the Port’s general utility pier (“Temporary Storage”);
- (i) Install a, bi-directional flow pipeline from the Condensate Header to Temporary Storage capable of up to 10,000 barrels per hour.

**“Impositions”** shall mean (a) all real estate, personal property, rental, water, sewer, transit, use, occupancy and other taxes, assessments, charges, excises and levies which are imposed upon or with respect to (1) the Leased Premises or any portion thereof, or the sidewalks, streets or alley ways adjacent thereto, or the ownership, use,

occupancy or enjoyment thereof or (2) this Lease and the Rent payable hereunder; and (b) all charges for any easement, license, permit or agreement maintained for the benefit of the Leased Premises.

**"Improvements"** shall mean all improvements constructed on the Leased Premises by Hawk during the Term of this Lease, including the Initial Improvements. Improvements shall not include any existing structures or personal property presently located on the Leased Premises, regardless if such structures have been modified, refurbished, enhanced, replaced or in any manner been altered by Hawk.

**"Land Rent"** shall mean the annual amount payable by Hawk described in Section 5.01, subject to adjustment as provided therein.

**"Leased Premises"** shall mean (a) the property leased by Hawk pursuant to this Lease and further described in Exhibit "A" hereto, and (b) all existing improvements thereon or Improvements hereafter added to the property described in Exhibit "A".

**"Legal Requirements"** shall mean any and all (a) judicial decisions, orders, injunctions, writs, statutes, rulings, rules, regulations, promulgations, directives, permits, certificates or ordinances of any governmental authority in any way applicable to Hawk in connection with its use of the Leased Premises or to the Leased Premises, including zoning, environmental and utility conservation matters, (b) Port's Tariffs, (c) insurance requirements described in Article 11 and (d) other documents, instruments or agreements (written or oral) relating to the Leased Premises or to which the Leased Premises may be bound or encumbered.

**"Minimum Through-Put"** shall have the meaning given such term in Section 5.02.

**"Permitted Use"** shall mean the operation of a liquid petroleum condensate and other oil and gas hydrocarbon storage and multi-modal distribution facility, including without limitation, loading and unloading facilities, on site storage facilities for liquid petroleum condensate and other oil and gas hydrocarbons, on site vapor destruction facilities, use of the transportation infrastructure access via the right-of-way to Port's [Liquid Cargo Ship Terminal (piers #1 and #2)], Liquid Cargo Barge Terminal (piers #4 and #5), Multi-Purpose Dock, the storage of equipment and use of any agreed upon railroad right-of-ways, and including blending, mixing, manufacturing, storage, testing, and related handling of such materials and components in both bulk and non-bulk forms, and including without limitation, use of the transportation infrastructure access to any other easements, privately owned or leased docks, roads or terminals, or public highways.

**"Port"** shall mean the Calhoun Port Authority, the body politic and governmental subdivision identified in the opening recital of this Lease, and its successors and assigns and subsequent owners of the Leased Premises.

**"Port Facilities"** shall mean all channels, waterways, docks, slips and other facilities and improvements owned, operated or controlled by Port (other than the Hawk Facility) which are necessary for access to, or the use and operation of, the Hawk Facility as contemplated hereunder.

**"Port's Tariffs"** shall mean the rates, rules, regulations, policies and tariffs issued, adopted, amended and reissued by Port from time to time (including, without limitation, Tariff No. 003).

**"Rent"** shall mean Land Rent, Through-Put Cargo Rental and any other tariffs or other amounts payable hereunder by Hawk, whether as additional Rent or otherwise.

**"Right-of-Ways"** shall mean right-of-ways, now or hereafter defined and granted in separate instruments, to Port's general cargo dock and railroad spur(s).

**"Hawk Facility"** shall mean the facility to be constructed by Hawk on the Leased Premises.

**"Taking"** shall mean the taking, damaging or destroying of all or any portion of the Leased Premises by or on behalf of any governmental authority or any other person or entity pursuant to its power of eminent domain. **"Total Taking"** shall mean any Taking of all or substantially all of the Leased Premises, or of so much of the Leased Premises that the portion remaining cannot, in Hawk's good faith judgment reasonably exercised, be economically restored so as to permit economically sound operation. **"Partial Taking"** shall mean any Taking of less than all of the Leased Premises such that the portion remaining can, in Hawk's good faith judgment reasonably exercised, be economically restored so as to permit economically sound operation.

**"Term"** shall mean a period of approximately 30 years beginning April 13, 2011 (the "Commencement Date") and ending at 11:59 p.m. on March 31, 2041.

**"Termination Payment"** shall have the meaning given such term in Section 3.02.

**"Through-Put"** shall mean product transferred by Hawk across Port's docks.

**"Through-Put Cargo Rental"** shall mean the Port's wharfage fees set on product transferred across Port's docks by Hawk.

**"Through-Put Deficiency"** shall have the meaning given such term in Section 5.02.

## **Article 2. Leased Premises.**

**Section 2.01. Description of the Leased Premises.** Subject to the provisions of this Lease, Port hereby leases, demises and lets to Hawk and Hawk hereby leases

from Port, the Leased Premises. Both parties acknowledge that Port shall have the right to access the Leased Premises, including the use of the existing roadway, so long as such use and access does not interfere with Hawk's Permitted Use, subject to the requirements of Article 10 below. Notwithstanding the right to use the roadway set forth above so long as it does not interfere with Hawk's Permitted Use, Hawk acknowledges that it may be necessary to grant Port an access easement over the Leased Premises that allows access to the remainder of property owned by the Port and agrees to execute any documentation required in order to effectuate the grant of such right-of-way and easement.

**Section 2.02. Right-of-Ways.** Both parties acknowledge that it will be necessary to execute nonexclusive railroad, and access easements to Port's [Liquid Cargo Ship Terminal (piers #1 and #2)], Liquid Cargo Barge Terminal (piers #4 and #5), and Multi-Purpose Dock, general cargo dock, for the benefit of Hawk. Port agrees to promptly execute any additional documentation required in order to effectuate the grant of such right-of-ways and easements. Such grant of right-of-ways and easements shall be in substantially the same form as Exhibit "C" attached hereto.

**Section 2.03. Pipe Rack Easement.** Both parties acknowledge that it will be necessary to execute a separate Pipe Rack Easement and agree that the fee for such easement will be at a rate of \$1.75 per foot, per year.

**Article 3. Term.**

**Section 3.01.** This lease is for a term of 30 years commencing on April 13, 2011 and continuing through March 31, 2041.

**Section 3.02.** Notwithstanding anything herein to the contrary, Hawk shall have the right to terminate this Lease at any time during the Term upon 180 days prior written notice to Port. Hawk's right to terminate hereunder is conditioned upon the payment in full by Hawk to Port on or before the effective termination date of an amount equal to \$1,000,000.00 (the "**Termination Payment**"). After Port's receipt of the Termination Payment, and so long as Hawk has surrendered the Leased Premises in the condition required under Section 6.01, neither Party shall have any further obligations or liabilities hereunder following the date of such termination, except those which, by the provisions of this Lease, expressly survive the termination of this Lease.

**Article 4. Use.**

**Section 4.01. Permitted Use.** Hawk shall use the Leased Premises for the development and operation of any Permitted Uses under this Lease, and any ancillary uses thereto. Hawk shall also use the Port Facilities to the extent necessary or convenient and related to its Permitted Use of the Leased Premises.

**Section 4.02. Continuous Operation.** Hawk will occupy and use the Leased Premises solely for any or all of the Permitted Uses and any ancillary uses thereto and in compliance with all applicable Legal Requirements. This Lease shall terminate in the event Hawk abandons the use of the Leased Premises for a continuous period of 180 days unless excused by Force Majeure.

**Section 4.03. Specifically Prohibited Use.** Hawk will not (a) use, occupy or permit the use or occupancy of the Leased Premises for any purpose or in any manner which is or may be, directly or indirectly, (1) inconsistent with the requirements of this Lease, (2) violative of any of applicable Legal Requirements, (3) dangerous to life, health, the environment or property, or a public or private nuisance or (4) disruptive to the activities of any other tenant or occupant of property adjacent to the Leased Premises, (b) commit or permit to remain any waste to the Leased Premises or (c) intentionally commit, or permit to be committed, any action or circumstance in or about the Leased Premises which, directly or indirectly, would or might justify any insurance carrier in canceling the insurance policies maintained by Hawk on the Leased Premises and Improvements thereon. Port hereby confirms to Hawk that the use of the Leased Premises for the Permitted Uses shall not constitute a prohibited use hereunder so long as the same is conducted in compliance with applicable Legal Requirements.

**Section 4.04. Environmental Restrictions.** Hawk shall not cause or permit any Hazardous Materials or industrial solid wastes to be generated, treated, stored, manufactured, disposed or released on or about the Leased Premises or transferred or transported to the Leased Premises, in contravention of any Legal Requirements. The term "Hazardous Materials" shall mean any flammables, explosives, radioactive materials, hazardous waste and hazardous constituents, toxic substances or related materials, including substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "solid wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.A. Sec. 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Sec. 5101, et seq.; the Resources Conservation and Recovery Act, 42 U.S.C.A. Sec. 6901, et seq.; the Toxic Substance Control Act, as amended, 15 U.S.C.A. Sec. 2601 et seq.; Grantor's Tariffs; the Solid Waste Disposal Act, Chapter 361 of the Health and Safety Code of Texas; or any other legal requirement. Both Parties agree and acknowledge that Hawk shall be entitled to operate a petroleum condensate and other oil and gas hydrocarbon storage and distribution facility on the Leased Premises.

**Section 4.05. Notification of Potential Liability Triggering Event.** Within two (2) business days following receipt thereof, Hawk shall notify and provide Port with all copies of written notices, demands, lawsuits, or other correspondence

from any federal, state or local governmental agency or private party relating to the Leased Premises including, but not limited to, the following:

- (a) The violation of any federal, state, or local statute or regulation;
- (b) The loss of any operating permit;
- (c) Any enforcement action undertaken against Hawk by any federal, state or local governmental agency, or any private party;
- (d) The institution of any lawsuit against Hawk by any governmental entity or any private party; or
- (e) The service of a potentially responsible party demand letter to Hawk from any private or governmental party.

**Section 4.06. Consequences of Hawk's Violation of Environmental Legal Requirements.** In the event Hawk's violation of environmental Legal Requirements exposes Port to fines or penalties as the owner of the Leased Premises, Hawk shall provide the defense of the Port with respect to such fines and penalties under the appropriate regulatory, administrative, or judicial procedures, and will pay any such fines or penalties timely and promptly after completion of any such defensive or mitigative proceedings, including appeals, if any.

**Section 4.07. INDEMNIFICATION.** IT IS EXPRESSLY AGREED AND UNDERSTOOD THAT HAWK SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS PORT, ITS EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, AND BOARD MEMBERS, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES (INCLUDING WITHOUT LIMITATION REASONABLE LEGAL FEES, COSTS AND EXPENSES), ENFORCEMENT ACTIONS, OR PENALTIES, ARISING OUT OF THE PLACEMENT, TRANSPORTATION, USE, MANUFACTURE, HANDLING, CREATION, STORAGE, TREATMENT, DISCHARGE, OR RELEASE OF ANY HAZARDOUS MATERIALS TO, ON OR FROM THE LEASED PREMISES DURING THE TERM OF THIS LEASE BY HAWK, OR HAWK'S AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS OR INVITEES. NOTWITHSTANDING ANYTHING IN SECTION 6.05 TO THE CONTRARY, IN NO EVENT SHALL HAWK BE LIABLE FOR ANY AND ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES (INCLUDING WITHOUT LIMITATION REASONABLE LEGAL FEES, COSTS AND EXPENSES), ENFORCEMENT ACTIONS, OR PENALTIES, ARISING OUT (I) ANY HAZARDOUS MATERIALS EXISTING ON THE LEASED PREMISES AS OF THE EFFECTIVE DATE OR (II) THE PLACEMENT,

TRANSPORTATION, USE, MANUFACTURE, HANDLING, CREATION, STORAGE, TREATMENT, DISCHARGE, OR RELEASE OF ANY HAZARDOUS MATERIALS TO, ON OR FROM THE LEASED PREMISES DURING THE TERM OF THIS LEASE BY PORT OR ANY THIRD PARTY NOT UNDER THE CONTROL OF HAWK OR HAWK'S AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS OR INVITEES.

**Article 5. Rent.**

**Section 5.01. Land Rent.** Hawk shall lease from Port the land described in Exhibit "A", for an annual Land Rent of \$267,000.00 per year Notwithstanding anything herein to the contrary, the annual Land Rent for the initial year of the Term in the amount of \$267,000.00 shall be due and payable on or before April 13, 2011. On each Fiscal Year anniversary of this Lease, July 1<sup>st</sup>, Port may increase the annual Land Rent rate to reflect its then prevailing Land Rent rate as set by the Board, but such increases may not exceed 4% per year. Port shall provide written notice to Hawk of any such increases in Land Rent no later than June 1 of each Fiscal Year. An administrative fee of \$25,000.00 shall also be due and payable at the time of execution of this Ground Lease Agreement.

**Section 5.02. Cargo Through-Put Rental and Guarantee.** In addition to such Land Rent, Hawk shall pay all Through-Put charges applicable under Port's prevailing tariff as that Through-Put accrues. Hawk, during each Fiscal Year of this Lease, guarantees Port a Through-Put of 100,000 short tons of cargo (the "Minimum Through-Put"), including but not limited to liquid petroleum condensate. In the event Hawk fails to meet the Minimum Through-Put requirements for any Fiscal Year, Port shall invoice Hawk at the current tariff rate for the difference between the Minimum Through-Put and the actual amount of Through-Put (the "Through-Put Differential"). All Minimum Through-Put or Through-Put Differential shall be billed by Port on an annual fiscal basis and shall be due and payable within thirty (30) days after Port provides Hawk with a written invoice therefore. Any additional Through-Put Cargo Rental shall be billed as it accrues. The total Through-Put Cargo Rental shall be determined on an annual fiscal basis, starting with the year beginning July 1, 2011.

**Section 5.03. Place of Payment.** Rent due hereunder shall be paid to Port at its address for notice hereunder or to such other person or at such other address in Calhoun County, Texas, as Port may from time to time designate in writing. Rent shall be paid in legal tender of the United States of America without notice, demand, abatement, deduction or offset except as herein provided.

**Section 5.04. Delinquent Payments.** All Rent and other payments required of Hawk hereunder which are not paid within ten (10) days following receipt of written notice from Port shall bear interest at the maximum rate allowed by law (or, if there is no maximum rate, at ten percent (10%) per annum) from the date

due until the date paid; provided that, any payments due hereunder that are timely disputed by Hawk in the ordinary course of business shall not be subject to such delinquent payment charge. In no event, however, shall the charges permitted under this Section or elsewhere in this Lease, to the extent any or all of the same are considered to be interest under applicable law, exceed the maximum rate of interest allowable under applicable law.

**Section 5.05. Other Charges:** Hawk shall comply with and shall pay all local, state and federal taxes (including without limitation, income, franchise, gross receipts, sales, use, excise and real and personal property taxes), governmental charges of any kind whatsoever, payments in lieu of taxes, assessments, special assessments, licenses, registration fees, freight, and transportation charges and any other charges imposed, assessed, levied or liabilities incurred with respect to the ownership, the possession or the use of the Leased Premises or pipelines, any payment of the Rent payments or any other payments by Hawk under this Lease and any penalties, fines or interest imposed on any of the foregoing (collectively, the "Charges") during the Term.

**Section 5.06. Hawk to Control Charges.** Port shall, to the maximum extent permitted by law, permit Hawk to pay directly to the relevant taxing or other authorities or third parties all charges due under this Article 5, if Hawk so requests.

a. Hawk may, at Hawk's expense and in Hawk's or Port's name, in good faith contest any Charges (and Port shall cooperate fully in any such contest) and, in the event of any such contest, may permit such Charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Port shall notify Hawk that, in the reasonable opinion of Port, by nonpayment of any such Charges the interest of Port in the Lease will be materially endangered or any part thereof will be subject to loss or forfeiture, in which event Hawk shall promptly pay any such charges.

b. Hawk agrees to conduct any such contest or appeal in a reasonable manner and further agrees that it will not enter into any settlement or compromise that would obligate Port to make any payment or to take or refrain from taking any action, other than ministerial acts.

c. All rebates, refunds or other return of charges shall be paid directly to Hawk, or if received by the Port, shall be promptly paid over to Hawk.



**Article 6. Construction, Ownership and Operation of Improvements.**

**Section 6.01. Title to Improvements.** All new Improvements constructed by Hawk are the property of Hawk. Hawk may, at its option, remove such Improvements upon the expiration or earlier termination of this Lease; and Hawk shall repair all damage to the Leased Premises caused by such removal at Hawk's cost, expense and liability. At the time of removal Hawk shall be required to restore the Leased Premises to substantially the same condition as of the Commencement Date, ordinary wear and tear excepted. In the event that Hawk elects not to remove its Improvements within one hundred and eighty (180) days of the expiration or earlier termination of the Lease, then, at Port's election (i) Hawk's rights, title and interest in and to such Improvements shall be vested in Port without the necessity of executing any conveyance instruments, or (ii) Port shall be entitled to remove and dispose of such Improvements, in a commercially reasonable manner, at Hawk's cost, expense and liability.

**Section 6.02. Permits.** Hawk shall obtain and maintain in effect at all times during the Term all permits, licenses and consents required or necessary for the construction, installation, maintenance, use and operation of the Improvements and Hawk's use and occupancy of and operations at the Leased Premises.

**Section 6.03. Alterations & Improvements After Initial Construction.** After the Initial Improvements have been completed, Hawk shall be permitted to make or cause to be made, any alterations, improvements or additions to, or install, or permit to be installed, any fixture or equipment in or on the Leased Premises without the written approval of Port, so long as such alterations, improvements or additions are made in accordance with industry standard and applicable Legal Requirements. Hawk shall provide Port written notice of its election to make any such additional alterations, improvements or additions at least 30 days prior to commencement of construction. All Improvements made, placed, or constructed on the Leased Premises by Hawk shall be maintained at the sole cost and expense of Hawk. Hawk shall construct and install its Improvements in a good and workmanlike manner.

**Section 6.04. [Intentionally deleted.]**

**Section 6.05. Condition of Leased Premises.** Hawk acknowledges that it has independently and personally inspected the Leased Premises and that it has entered into this Lease based upon such examination and inspection. Hawk accepts the Leased Premises in its present condition, "**AS IS, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED,**" other than the warranty of quiet enjoyment; specifically, without limiting the generality of the foregoing, without any warranty of (a) the nature or quality of any construction, structural design or engineering of

any improvements located at or constituting a portion of the Leased Premises as the Commencement Date, (b) the quality of the labor and materials included in any such existing improvements, or (c) the soil and environmental conditions existing at the Leased Premises and the suitability of the Leased Premises for any particular purpose or developmental potential. Port shall not be required to make any improvements to the Leased Premises or to repair any damages to the Leased Premises.

**Section 6.06. Repair and Maintenance.** Hawk shall maintain the Leased Premises at all times during the Term in a good, clean, safe, operable and well-kept condition, and will not commit or allow to remain any waste or damage to any portion of the Leased Premises.

**Section 6.07. Laborers and Mechanics.** Hawk shall pay for all labor and services performed for, materials used by or furnished to Hawk, or used by or furnished to any contractor employed by Hawk with respect to the Leased Premises and hold Port and the Leased Premises harmless and free from any liens, claims, encumbrances or judgments created or suffered by Hawk. If Hawk elects to post a payment or performance bond or is required to post an improvement bond with a public agency in connection with the above, Hawk agrees to include Port as an additional obligee thereunder.

**Article 7. Fencing, Rail Service, Utilities and Security.**

Hawk shall, at its sole cost and expense, provide for appropriate fencing for the Leased Premises. Hawk shall, at its sole cost and expense, provide for whatever additional services and utilities it may desire, including but not limited to railroad services for the Leased Premises and water, both potable and nonpotable, fire water, gas, electricity, telephone, sewage treatment, waste water collection and drainage and any other utilities or similar services used in or on the Leased Premises, but shall have no obligation to provide such services or utilities except as needed by Hawk. Hawk shall be responsible for all costs and charges in connection therewith and agrees to pay the same promptly as such charges accrue, and to protect, indemnify and hold Port harmless from and against any and all liability for any such costs or charges. To the extent Port provides any such services to the Leased Premises or pays the cost for any such services, Hawk shall pay to Port the cost of such services within 30 days from the date of such invoice.

**Article 8. Impositions.** Without duplication of Hawk's payment of Charges, during the Term, Hawk shall pay or cause to be paid as and when the same shall become due, all Impositions. Impositions that are payable by Hawk for the tax year in which Commencement Date occurs as well as during the year in which the Term ends shall be apportioned so that Hawk shall pay its proportionate share of the Impositions payable for such periods of time. Where any Imposition that

Hawk is obligated to pay may be paid pursuant to law in installments, Hawk may pay such Imposition in installments as and when such installments become due. Hawk shall deliver to Port evidence of payment of all Impositions Hawk is obligated to pay hereunder, concurrently with the making of such payment. Hawk shall, within 60 days after payment of any Imposition, deliver to Port copies of the receipted bills or other evidence reasonably satisfactory to Port showing such payment.

**Article 9. Transfer by Hawk.**

**Section 9.01. General.** Hawk shall not effect or suffer any assignment or transfer of any interest in this Lease or sublet any portion of the Leased Premises (collectively or individually, a "Transfer") without the prior written consent of Port, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted Transfer without such consent shall be void and of no effect. If Hawk desires to effect a Transfer, it shall deliver to Port written notice thereof in advance of the date on which Hawk proposes to make the Transfer, together with all of the terms of the proposed Transfer and the identity of the proposed Transferee. Port shall have 30 days following receipt of the notice and information within which to notify Hawk in writing whether Port elects (a) to refuse to consent to the Transfer and to continue this Lease in full force and effect as to the entire Leased Premises or (b) to permit Hawk to effect the proposed Transfer. If Port fails to notify Hawk of its election within said 30 day period, Port shall be deemed to have elected option (b). The consent by Port to a particular Transfer shall not be deemed a consent to any other Transfer. Notwithstanding the foregoing, Hawk may Transfer this Lease to any affiliate of Hawk, meaning any person or entity controlling, controlled by or under common control with Hawk, or a successor to all or substantially all of Hawk's business or assets, each without Port's prior consent. If a Transfer occurs without the prior written consent of Port, Port may nevertheless collect Rent from the Transferee and apply the net amount collected to the Rent payable hereunder, but such collection and application shall not constitute a waiver of the provisions hereof or a release of Hawk from the further performance of its obligations hereunder. The parties acknowledge herein that they may enter into a letter agreement pre-approving any potential assignees. Notwithstanding anything in this Section 9.01 to the contrary, Hawk shall have the right to freely pledge, encumber and mortgage the rights or obligations granted under this Lease, in whole or in part, to one or more third parties, without the written consent of Port so long as Port is provided a subordination agreement regarding this Lease.

**Article 10. Access by Port.** Port, its employees, contractors, agents and representatives, shall have the right (and Port, for itself and such persons and firms, hereby reserves the right) to enter the Leased Premises during reasonable business hours and upon reasonable notice (a) to inspect the Leased Premises, (b)

to show the Leased Premises to prospective purchasers or tenants, (c) to determine whether Hawk is performing its obligations hereunder and, if it is not, to perform same at Port's option and Hawk's expense or (d) for any other reasonable purpose. In an emergency, Port (and such persons and firms) may use any means to open any door into or in the Leased Premises without any liability therefor. Entry into the Leased Premises by Port or any other person or firm named in the first sentence of this Article for any purpose permitted herein shall not constitute a trespass or an eviction (constructive or otherwise), or entitle Hawk to any abatement or reduction of Rent, or constitute grounds for any claim (and Hawk hereby waives any claim) for damages for any injury to or interference with Hawk's business, for loss of occupancy or for consequential damages, but Port shall not unreasonably interfere with Hawk's use or quiet enjoyment of the Leased Premises.

**Article 11. Insurance.**

**Section 11.01.** Hawk shall procure and maintain continuously in effect with respect to the Leased Premises, insurance against liability for injuries to or death of any persons or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Leased Premises or any part thereof, providing coverage with a combined single limit of \$10,000,000 for injuries to or death of persons or damage to property per occurrence, or in such other amounts and, within 30 days after written notice from Port (subject to the remainder of this Section 11.01), with such other coverages as shall at the time be in accordance with general industry practice for similar facilities and operations of the type and scope of the Leased Premises. In the event of a dispute between the Port and Hawk as to general industry practice for insurance coverages, the matter may be referred by either Party to an independent insurance broker with expertise in industrial insurance for such broker's independent determination of the prudent insurance requirements for such facilities and such determination shall be final and binding on the parties hereto for a period of five years. All such policies of insurance shall designate the Port as an additional insured. Hawk shall furnish to Port a copy of the policy of insurance designating the Port as a named insured within thirty days of the date of execution hereof. In the event Hawk changes policies, a copy of the new policy designating the Port as a named insured shall be furnished to the Port within ten (10) days.

**Section 11.02. Self-Insurance.** Hawk may at any time during the Term substitute self-insurance for any insurance coverage required by the terms of this Lease Agreement, to be provided by Hawk or any affiliate of Hawk; provided, however, that Hawk or the relevant affiliate can provide to Port filings with the Securities and Exchange Commission or other audited financial statements demonstrating

that Hawk or the relevant affiliate had as of the end of its most recent fiscal year a consolidated net worth of at least Five Hundred Million Dollars (\$500,000,000).

**ARTICLE 12. INDEMNITY.**

**HAWK HEREBY RELEASES AND DISCHARGES PORT, ITS SUCCESSORS AND ASSIGNS, AND ALL OF ITS RESPECTIVE OFFICERS, DIRECTORS, COMMISSIONERS, AND THEIR SUCCESSORS IN OFFICE, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES AND AGENTS, HEREINAFTER COLLECTIVELY AND SEVERALLY REFERRED TO AS "INDEMNITEES" FROM AND AGAINST ALL LIABILITY FOR, AND ASSUMES THE RISK OF ALL LOSSES, EXPENSES, LIENS, CLAIMS, DEMANDS, DAMAGES AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER WHATSOEVER FOR DAMAGE TO THE LEASED PREMISES AND IMPROVEMENTS OF THE INDEMNITEES AND OF HAWK, AND FOR THE PERSONAL INJURY TO OR DEATH OF ANY PERSONS (INCLUDING BUT NOT LIMITED TO PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF PORT) AND/OR DAMAGE TO ANY PERSONAL PROPERTY (INCLUDING BUT NOT LIMITED TO PROPERTY BELONGING TO PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) AND FOR ANY OTHER LIABILITY, DAMAGES, FINES OR PENALTIES (EXCEPT WHERE REIMBURSEMENT FOR FINES OR PENALTIES IS PROHIBITED BY APPLICABLE LAW), INCLUDING COSTS, EXPENSES, PENALTIES AND INTEREST, ATTORNEY FEES AND SETTLEMENTS HEREINAFTER REFERRED TO COLLECTIVELY AND SEVERALLY AS "CLAIMS", ARISING OUT OF OR IN ANY WAY CONNECTED WITH HAWK'S OBLIGATIONS UNDER THIS LEASE AGREEMENT OR THE PERFORMANCE OR FAILURE OF HAWK TO PERFORM THE COVENANTS OF THIS LEASE AGREEMENT, EXCEPT TO THE EXTENT ARISING FROM THE NEGLIGENCE, GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF THE INDEMNITEES. THIS INDEMNITY SHALL INCLUDE CLAIMS ARISING OUT OF, BROUGHT BY OR CAUSED, IN WHOLE OR IN PART BY HAWK, ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF HAWK, AND HAWK EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS,**

DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS, HARMLESS FROM ALL "CLAIMS" OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO "CLAIMS" IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY HAWK'S (INCLUDING ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT OR BREACH OF WARRANTY, EXPRESSED OR IMPLIED.

THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL INDEMNITEE FOR A PARTICULAR CLAIM, INsofar AS THAT PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT EXCLUSIVELY FROM THE NEGLIGENCE, THE GROSS NEGLIGENCE OR WILLFUL CONDUCT OF THAT INDEMNITEE SEEKING TO ENFORCE THE INDEMNIFICATION.

THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE TERMINATION OF THIS LEASE.

**Article 13. Casualty Loss.**

**Section 13.01. Obligation to Restore.**

(a) If all or any part of the existing improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during the Term, Hawk shall promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed immediately prior to the casualty. Hawk will perform such restoration with at least as good workmanship and quality as the improvements being restored, and in compliance with the provisions of Article 6 hereof. Notwithstanding the foregoing provisions of this subparagraph (a) to the contrary, if all such existing improvements are wholly destroyed by any casualty, or are so damaged or destroyed that, in the Parties' good faith judgment reasonably exercised that it would be uneconomic to cause the same to be restored (and the Parties shall meet to make such determination within 90 Business Days after the date the casualty occurred), then Hawk shall not be obligated to restore such existing improvements and this Lease shall terminate as of the date of the casualty. Notwithstanding anything in

this Section 13.01 to the contrary, Hawk shall not be required to restore the Improvements located on the Leased Premises following any casualty during the Term. In the event it is determined that any such Improvements are so damaged or destroyed that, in the Parties' good faith judgment reasonably exercised that it would be uneconomic to cause the same to be restored (and the Parties shall meet to make such determination within 90 Business Days after the date the casualty occurred), then Hawk shall have the option to terminate this Lease as of the date the Improvements are removed and the property is restored in accordance with §6.01.

(b) If a casualty loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by Hawk for the damages arising from such casualty shall be distributed to Hawk and Hawk shall pay for the performance of the restoration of the Leased Premises under Sections 6.01 and 13.01(a), as interest may appear, for all damages to the Leased Premises or for costs incurred for the restoration of the Leased Premises to its unimproved condition as provided in Section 6.01.

**Section 13.02. Notice of Damage.** Hawk shall immediately notify Port of any destruction of or damage to the Leased Premises.

#### **Article 14. Condemnation.**

**Section 14.01. Total Taking.** If a Total Taking of the Leased Premises occurs, then this Lease shall terminate as of the date the condemning authority takes lawful possession of the Leased Premises and the Parties shall be entitled to receive and retain the Award for the Taking of the Leased Premises as interest may appear. [For example, it is anticipated under the present terms of this Lease that the award in respect of the real property would inure to the Port, the award with respect to value of the leasehold estate would inure to Hawk, and the award with respect to the value of the Improvements and the existing improvements would inure to the respective parties as interest might then appear, in accordance with the provisions of Section 6.01 above.]

**Section 14.02. Partial Taking.** If a Partial Taking of the Leased Premises occurs, as defined in Article 1 above, (a) this Lease shall continue in effect as to the portion of the Leased Premises not Taken, and (b) Hawk shall promptly commence and thereafter prosecute diligently to completion the restoration of the remainder of existing improvements located in (or constituting a part of) the Leased Premises to an economically viable unit with at least as good workmanship and quality as existed prior to the Taking. In the event of a Partial Taking of the Leased Premises, the Parties shall be entitled to receive and retain the Award for the portion of the Leased Premises Taken, as interest may appear. [For example, it is anticipated under the present terms of this Lease that the award in respect of the

real property would inure to the Port, the award with respect to value of the leasehold estate would inure to Hawk, and the award with respect to the value of the existing improvements and the Improvements would inure to the respective parties as interest might then appear, in accordance with the provisions of Section 6.01 above.] In addition, upon a Partial Taking, the Land Rent payable during the remainder of the Term (after the condemning authority takes lawful possession of the portion Taken) shall be reduced proportionally giving due regard to the relative value of the portion of the Premises Taken as compared to the remainder thereof.

**Section 14.03. Notice of Proposed Taking.** Hawk and Port shall immediately notify the other of any Proposed Taking of any portion of the Leased Premises.

**Article 15. Quiet Enjoyment.** Provided that Hawk is paying the Rent and all other sums called for herein and performing all of Hawk's other obligations contained herein, Hawk shall and may peaceably and quietly have, hold, occupy, use and enjoy the Leased Premises during the Term subject to the provisions of this Lease. Port agrees to warrant and forever defend Hawk's right to occupancy of the Leased Premises against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, by, through or under Port (but not otherwise), subject to the provisions of this Lease, all matters of record in the Official Records of Calhoun County, Texas, and any unrecorded easements, agreements or licenses executed by Port to the extent the foregoing are validly existing and applicable to the Leased Premises. This covenant and all other covenants of Port shall be binding upon Port and its successor during their respective periods of ownership of the Leased Premises.

**Article 16. Default.**

**Section 16.01. Events of Default.** Each of the following occurrences shall constitute an Event of Default by a Party under this Lease:

- (a) The failure of a Party to pay any amount due under this Lease, and the continuance of such failure for a period of ten (10) days after receipt of notice from the other Party;
- (b) The failure by a Party to perform, comply with or observe any other agreement, obligation or undertaking of such Party, and the continuance of such failure for a period of thirty (30) days after receipt of notice from the non-defaulting Party specifying such failure, except that if cure is not reasonably possible within such thirty (30) day period, a Party shall not be in default if it promptly commences cure within such period and thereafter diligently pursues cure until completion;



(c) The filing of a petition by or against Hawk in any bankruptcy or other insolvency proceeding, or seeking any relief under the federal Bankruptcy Code or any similar debtor relief laws; or

(d) Use of the Leased Premises by Hawk or its successors or assigns for any purpose other than the Permitted Uses, as defined in Article 1, and Hawk's failure to cease such impermissible use within thirty (30) days of receipt of notice of such violation from Port.

**Section 16.02. Remedies.** Upon the occurrence of an Event of Default, the non-defaulting Party may, in addition to its other remedies available at law, terminate this Lease upon thirty (30) days notice to the other Party; however, such notice shall not be effective if the defaulting Party cures the Event of Default within the meaning of Section 16.01(b) above prior to the termination date set forth in such notice.

**Section 16.03. No Waiver; No Implied Surrender.** Provisions of this Lease may not be waived orally or impliedly, but only by the Party entitled to the benefit of the provision evidencing the waiver in writing. No waiver of any breach by a Party shall constitute a waiver of any subsequent breach.

**Article 17. Right of Reentry.** Upon the expiration or termination of the Term for whatever cause, or upon the exercise by Port of its right to lawfully and peacefully re-enter the Leased Premises without terminating this Lease, Hawk shall immediately, quietly and peaceably surrender to Port possession of the Leased Premises in the condition and state of repair required under the Lease and Hawk shall, at its option, remove the Improvements in accordance with Section 6.01 hereof. If Hawk fails to surrender possession as herein required, Port may initiate any and all legal action as Port may elect to dispossess Hawk and all of its Improvements and all persons or firms claiming by, through or under Hawk and all of their Improvements from the Leased Premises, and may remove from the Leased Premises and store (without any liability for loss, theft, damage or destruction thereto) any such removable Property at Hawk's cost and expense. For so long as Hawk remains in possession of the Leased Premises after such expiration, termination or exercise by Port of its re-entry right, Hawk shall be deemed to be occupying the Leased Premises as a tenant-at-sufferance, subject to all of the obligations of Hawk under this Lease, except that the Land Rent shall be one and one-half times the per day Land Rent in effect immediately prior to such expiration, termination or exercise by Port. No such holding over shall extend the Term. If Hawk fails to surrender possession of the Leased Premises in the condition required under Section 6.01, Port may, at Hawk's expense, restore the Leased Premises to such condition.

**Article 18. Miscellaneous.**

**Section 18.01. Independent Obligations; No Offset.** The obligations of Hawk to pay Rent and to perform the other undertakings of Hawk hereunder constitute independent unconditional obligations to be performed at the times specified hereunder, regardless of any breach or default by Port hereunder. Hawk shall have no right, and Hawk hereby waives and relinquishes all rights which it might otherwise have, to claim any nature of lien against the Leased Premises or to withhold, deduct from or offset against any Rent or other sums to be paid to Port by Hawk.

**Section 18.02. Applicable Law.** This Lease shall be governed by, construed and shall be enforceable in accordance with the laws of the State of Texas without giving effect to the principles of conflict of laws. Venue for any action brought hereunder shall lie in the State District Courts of Calhoun County, Texas.

**Section 18.03. Assignment by Port.** Port shall have the right to assign, in whole or in part, any or all of its rights, titles or interests in and to the Leased Premises or this Lease and, upon any such assignment, Port shall be relieved of all unaccrued liabilities and obligations hereunder to the extent of the interest so assigned and assumed in writing .

**Section 18.04. Estoppel Certificates.** From time to time at the request of Port, Hawk will promptly and without compensation or consideration execute, have acknowledged and deliver a certificate stating (a) the rights (if any) of Hawk to extend the Term or to expand the Leased Premises, (b) the Rent (or any components of the Rent) currently payable hereunder, (c) whether this Lease has been amended in any respect and, if so, submitting copies of or otherwise identifying the amendments, (d) whether, within the actual knowledge of Hawk, there are any existing breaches or defaults by Port hereunder and, if so, stating the defaults with reasonable particularity and (e) such other information pertaining to this Lease as Port may reasonably request.

**Section 18.05. Signs.** Hawk shall not install any signs, placards or other advertising or identifying marks upon the Leased Premises or upon the exterior of any Improvements to or constituting a part of the Leased Premises without the prior written consent of Port, which shall not be unreasonably withheld. Hawk agrees to remove promptly and to the satisfaction of Port (at Hawk's sole cost and expense) upon the expiration or earlier termination of the Term any and all such signs, placards or other advertising or identifying marks.

**Section 18.06. Relation of the Parties.** It is the intention of the parties to create hereby the relationship of Port and Hawk, and no other relation is hereby created.

Nothing in this Lease shall be construed to make the parties partners or joint venturers or to render either Party liable for any obligation of the other.

**Section 18.07. Public Disclosure.** Port is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Open Records Act (Texas Government Code Chapters 551 and 552), and as such Port is required to disclose to the public (upon request) this Lease and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, Hawk agrees that the disclosure of this Lease or any other information or materials related to the consummation of the transactions contemplated hereby to the public by Port as required by the Texas Open Meetings Act, Texas Open Records Act, or any other Legal Requirement will not expose Port (or any party acting by, through or under Port) to any claim, liability or action by Hawk.

**Section 18.08. Notices and Billing Address.** All notices and other communications given pursuant to this Lease shall be in writing and shall either be mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, and addressed as set forth in this Lease, or delivered in person to the intended addressee, or sent by prepaid telegram, cable or telex followed by an confirmatory letter. Notice mailed in the aforesaid manner shall become effective three Business Days after deposit; notice given in any other manner, and any notice given to Port, shall be effective only upon receipt by the intended addressee. For the purposes of notice and/or billing, the address of

(a) Port shall be:  
Calhoun Port Authority  
P. O. Box 397  
Point Comfort, Texas 77978  
Attention: Port Director

and

(b) Hawk shall be:  
Hawk Field Services, LLC  
1101 ESE Loop 323, Suite 150  
Tyler, Texas 75701

Each Party shall have the continuing right to change its address for notice hereunder by the giving of 15 days prior written notice to the other Party provided however, if Hawk vacates the location that constitutes its address for notice hereunder without changing its address for notice pursuant to this Lease, then Hawk's address for notice shall be deemed to be the Leased Premises.

**Section 18.09. Entire Agreement, Amendment and Binding Effect.** This Lease constitutes the entire agreement between Port and Hawk relating to the subject matter hereof and all prior agreements relative hereto which are not contained herein are terminated. This Lease may be amended only by a written document duly executed by Port and Hawk, and any alleged amendment which is not so documented shall not be effective as to either Party. The provisions of this Lease shall be binding upon and inure to the benefit of the Parties hereto and their heirs, executors, administrators, successors and assigns; provided, however, that this Section 18.09 shall not negate, diminish or alter the restrictions on Transfers applicable to Hawk set forth elsewhere in this Lease.

**Section 18.10. Severability.** This Lease is intended to be performed in accordance with and only to the extent permitted by all Legal Requirements. If any provision of this Lease or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of the invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Lease and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

**Section 18.11. Construction.** Unless the context of this Lease clearly requires otherwise, (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character; (b) the singular shall include the plural wherever and as often as may be appropriate; (c) the term "includes" or "including" shall mean "including without limitation"; (d) the word "or" has the inclusive meaning represented by the phrase "and/or"; and (e) the words "hereof" or "herein" refer to this entire Lease and not merely the Section or Article number in which such words appear. Article and Section headings in this Lease are for convenience of reference and shall not affect the construction or interpretation of this Lease. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated article or section of this Lease.

**Section 18.12. Authority.** The person executing this Lease on behalf of Hawk personally warrants and represents unto Port that (a) (if applicable) Hawk is a duly organized and existing legal entity, in good standing in the State of Texas (b) Hawk has full right and authority to execute, deliver and perform this lease, (c) the person executing this Lease on behalf of Hawk was authorized to do so and (d) upon request of Port, such person will deliver to Port satisfactory evidence of his or her authority to execute this Lease on behalf of Hawk.

**Section 18.13. Incorporation by Reference.** Exhibit "A" hereto is incorporated herein for any and all purposes.

**Section 18.14. Force Majeure.** Port and Hawk shall be entitled to rely upon Force Majeure as an excuse for timely performance hereunder only as expressly provided herein and shall not be entitled to rely upon Force Majeure as an excuse for timely performance unless the party seeking to rely on Force Majeure (a) uses its best efforts to overcome the effects of the event of Force Majeure, (b) gives written notice to the other party within 5 days after the occurrence of the event describing with reasonable particularity the nature thereof or as soon thereafter as reasonable communications will permit, (c) commences performance of its obligation hereunder immediately upon the cessation of the event or restoration of use of the Leased Premises, and (d) gives written notice to the other party within 5 days after the cessation of the event advising the other party of the date upon which the event ceased to constitute an event of Force Majeure.

**Section 18.15. Interpretation.** Both Port and Hawk and their respective legal counsel have reviewed and have participated in the preparation of this Lease. Accordingly, no presumption will apply in favor of either Port or Hawk in the interpretation of this Lease or in the resolution of the ambiguity of any provision hereof.

**Section 18.16. Multiple Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute but one instrument.

**Section 18.17. Further Assurances.** Port shall execute and deliver any additional documents and take such further actions as Hawk may, from time to time, reasonably request, in order to effectuate the purpose and to assist Hawk in carrying out the terms of this Lease.

**Section 18.18 Safety and Security.** Hawk for the duration of this Lease shall at all times comply with all environmental, safety protocol and security protocol of the Port as set forth in Port's published tariff regulations.

**Article 19. Option to Lease.** Provided that Hawk delivers to Port simultaneously with the execution of this Lease the sum of \$25,000.00 (the "**Option Deposit**"), commencing on the Effective Date and continuing for a period of 6 months thereafter (the "**Option Period**"), Hawk shall have the exclusive option to lease ("**Option to Lease**") from Port additional property consisting on approximately 25 acres, as more particularly described in the lease agreement attached hereto as Exhibit B (the "**Option Property**"). Hawk may exercise the Option to Lease at any time prior to the expiration of the Option Period by delivering to Port written notice of Hawk's exercise of such option. Within ten (10) days after delivery of such notice, Hawk and Port shall each execute the lease of the Option Property in the form attached hereto as Exhibit B (the "**Phase II Lease**"). The rights and

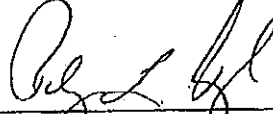
obligations of the Parties under this **Article 19** shall survive the early termination of this Lease.

**Article 20. Conditions Precedent.** This Lease is contingent upon satisfaction of the Conditions Precedent. Hawk shall give written notice to Port if it is of the opinion that the Conditions Precedent have not occurred. Upon receipt of such written notice Port shall have a reasonable amount of time to cure such defect. The Parties hereby agree that in the event Hawk does not give written notice to Port on or before six (6) months after the Effective Date of this Lease, the Conditions Precedent will be deemed fulfilled. In the event the Conditions Precedent have not been fulfilled within six (6) months of the Effective Date of this Lease then this Lease may be terminated upon the written request of Hawk. In the event of termination under this paragraph, the annual rental rate shall be prorated on a monthly basis.

[Signatures follow on Next Page]

EXECUTED this 13<sup>th</sup> day of April, 2011.

**CALHOUN PORT AUTHORITY:**



\_\_\_\_\_  
Randy L. Boyd, Board Chair  
Calhoun Port Authority

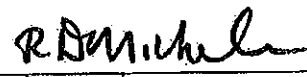
**ATTEST:**



\_\_\_\_\_  
H. C. Wehmeyer, Board Secretary  
Calhoun Port Authority

**HAWK FIELD SERVICES, LLC,**  
an Oklahoma limited liability company

*2/25/11*

By: 

Name: Richard DiMichele

Title: \_\_\_\_\_

**FIELDNOTE DESCRIPTION**  
**10.68 ACRES**

**STATE OF TEXAS** }  
**COUNTY OF CALHOUN** }

All of that certain tract or parcel containing 10.68 acres situated in the Thomas Cox Survey, Abstract No. 10 of Calhoun County, Texas and being a part of the same property described as 169.965 acres in Exhibit A-1 of Special Warranty Deed from E. S. Joslin, LP to the Calhoun County Navigation District, recorded in Volume 376, Page 661 of the Official Records of Calhoun County, Texas. This 10.68 acres is more particularly described by metes and bounds as follows:

**BEGINNING** at an existing 5/8 inch iron rod located at an interior corner of the above referenced 169.965 acre tract and at the Southwest corner of the residue of a 200 acre tract recorded in Volume 256, Page 449 of the Calhoun County Deed Records and for the Northwest corner (X = 2,754,864.76; Y = 13,427,904.02) of this 10.68 acres being described;

**THENCE** North 87° 33' 20" East, with an interior line of the said 169.965 acre tract and a South line of the said residue tract, a distance of 500.63 feet to an 5/8 inch iron rod with plastic cap set for the Northeast corner of this 10.68 acres being described;

**THENCE** South 02° 26' 40" East, a distance of 887.44 feet to an existing 5/8 inch iron rod for the Southeast corner of this 10.68 acres being described;

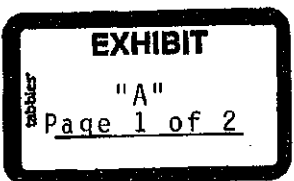
**THENCE** South 61° 38' 55" West, a distance of 107.15 feet to an existing 5/8 inch iron rod for the a corner of this 10.68 acres being described;

**THENCE** South 87° 24' 22" West, pass an existing 5/8 inch iron rod located on line at a distance of 183.91 feet and continuing a total distance of 403.13 feet to an 5/8 inch iron rod with plastic cap set for the Southwest corner of this 10.68 acres being described;

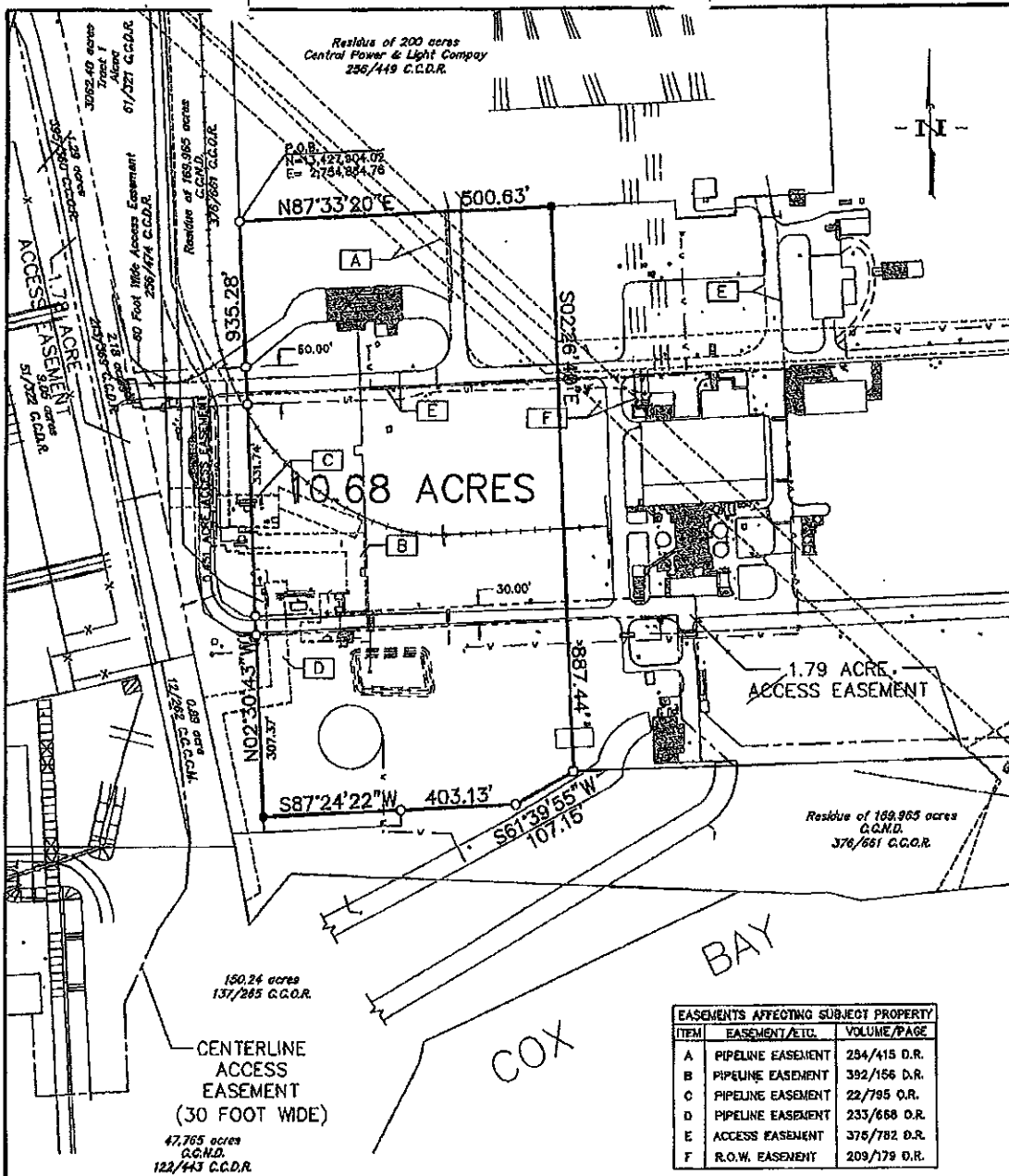
**THENCE** North 02° 30' 43" West, pass an existing 5/8 inch iron rod located at a distance of 307.37 feet and pass another existing 5/8 inch iron rod located at a distance of 337.37 feet and pass another existing 5/8 inch iron rod located at a distance of 869.11 feet and pass another existing 5/8 inch iron rod located at a distance of 729.11 feet and continuing a total distance of 935.28 feet to the **PLACE OF BEGINNING**, containing within these metes and bounds 10.68 acres.

Coordinates and bearings recited herein are Texas State Plane, South Central Zone NAD'83 relative to NGS Monument "Mitchell 2" (X = 2,750,669.14; Y = 13,426,969.87). This fieldnote description and a plat were prepared from a survey made on the ground under my direction on April 11, 2011.

  
G & W ENGINEERS, INC.  
Henry A. Danysh  
Registered Professional Land Surveyor, No. 5088







EASEMENTS AFFECTING SUBJECT PROPERTY		
ITEM	EASEMENT/ETC.	VOLUME/PAGE
A	PIPELINE EASEMENT	294/415 D.R.
B	PIPELINE EASEMENT	392/156 D.R.
C	PIPELINE EASEMENT	22/795 O.R.
D	PIPELINE EASEMENT	233/668 D.R.
E	ACCESS EASEMENT	375/782 D.R.
F	R.O.W. EASEMENT	209/179 D.R.

**LEGEND**

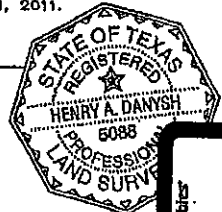
- EXISTING 5/8" IRON ROD UNLESS NOTED
- SET 5/8" IRON ROD WITH PLASTIC CAP
- C.C.D.R. CALHOUN COUNTY DEED RECORDS
- O.C.O.R. CALHOUN COUNTY OFFICIAL RECORDS
- O.C.O.C.M. CALHOUN COUNTY COMMISSIONERS COURT MINUTES
- P.O.B. POINT OF BEGINNING
- X- EXISTING WIRE FENCE
- [ ] PLAT OR DEED CALL

**NOTES:**  
 1. COORDINATES AND BEARINGS SHOWN HEREON ARE TEXAS STATE PLANE, SOUTH CENTRAL ZONE NAD 83, RELATIVE TO NOS MONUMENT "MITCHELL 2" (X=2,760,869.14; Y= 13,426,989.87)  
 2. DISTANCES AND AREA SHOWN HEREON ARE IN GRID. (APPLY SCALE FACTOR OF 0.99993498 TO CONVERT TO SURFACE)  
 3. BACKGROUND INFORMATION SHOWN HEREON IS FROM DIGITAL FILES AND NOT FROM ACTUAL FIELD MEASUREMENTS. THE ACCURACY OF THIS INFORMATION IS APPROXIMATE ONLY.

**10.68 ACRE SURVEY  
 THOMAS COX LEAGUE  
 ABSTRACT NO. 10  
 CALHOUN COUNTY, TEXAS**

I, HENRY A. DANYSH, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON AND A FIELDNOTE DESCRIPTION PREPARED REPRESENTS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY DIRECTION ON APRIL 11, 2011.

G & W ENGINEERS, INC.  
 HENRY A. DANYSH  
 REGISTERED PROFESSIONAL  
 LAND SURVEYOR NO. 6088



**G & W ENGINEERS, INC.**  
 • ENGINEERING • SURVEYING • ARCHITECTURE • PLANNING  
 205 W. LIVE OAK ST. PORT LAVACA, TEXAS 77979 (361) 552-4509  
 1801 7th ST., SUITE 260 BAY CITY, TEXAS 77414 (979) 323-7100  
 DRAWN BY: J.H.D. RECON'D BY: H.A.D. DATE: APRIL 11, 2011 SCALE: 1" = 200' JOB NO.: 9171-000 DRAWING NO.

**EXHIBIT**  
 "A"  
 Page 2 of 2

## **AMENDMENT TO GROUND LEASE AGREEMENT**

This AMENDMENT to GROUND LEASE AGREEMENT (hereinafter referred to as this "Amendment") between Calhoun Port Authority, a body politic and a governmental subdivision of the State of Texas (hereinafter referred to as "Port"), and Hawk Field Services, LLC, an Oklahoma limited liability company authorized to do business in the State of Texas (hereinafter referred to as "Hawk", and together with Port, the "Parties" and each a "Party") is entered into and agreed effective August 1, 2011 (the "Effective Date").

### **RECITALS**

**WHEREAS**, Hawk and Port entered into a Ground Lease Agreement effective as of April 13, 2011 (the "Lease"), under which Port leases to Hawk an approximate 10.68 acre tract of land owned by Port;

**WHEREAS**, a Memorandum of Lease was recorded in the Official Records of Calhoun County as Instrument Number 125824;

**WHEREAS**, Hawk and Port have now agreed to amend the Lease to change the Leased Premises (as defined in the Lease and described in Exhibit A thereto);

**WHEREAS**, the change to the Leased Premises will increase the size of the Leased Premises from 10.68 acres to 12.43 acres; and

**NOW, THEREFORE**, the Parties hereto, in consideration of the premises and covenants in the Lease and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each intending to be legally bound, agree as follows:

### **AGREEMENTS**

1. Port agrees and acknowledges that Port has determined that this Amendment is authorized by law and the lease of the Leased Premises to Hawk pursuant to the Lease, as hereby amended, constitutes a valid public use.
2. As of the Effective Date, Exhibit A to the Lease, which describes the Leased Premises, is deleted in its entirety and replaced with Exhibits "A" and "B" to this Amendment.
3. The annual Land Rent described in Section 5.01 of the Lease shall be adjusted to reflect to change in the Leased Premises. Accordingly, the annual Land Rent payable under Section 5.01 of the Lease is hereby increased from Two Hundred Sixty Seven Thousand Dollars and 00/100 (\$267,000.00) to Three Hundred Ten Thousand, Seven



Hundred Fifty Dollars and 00/100 (\$310,750.00), subject to adjustment as provided in Section 5.01.

4. Port hereby acknowledges that, as of the Effective Date, Hawk has paid the annual Land Rent originally due for the initial year of the Lease in the amount of Two Hundred Sixty Seven Thousand Dollars and 00/100 (\$267,000.00). Hawk hereby agrees to pay to Port on or before August 1, 2011, the amount of Forty Three Thousand, Seven Hundred Fifty Dollars and 00/100 (\$43,750.00), representing the remaining balance of the Land Rent due for the initial year of the Lease following the adjustment to the annual Land Rent described in Paragraph 3 above.

5. This Amendment shall become effective only upon full execution and delivery of this Amendment by each Party. This Amendment contains the Parties' entire agreement regarding the subject matter covered by this Amendment, and supersedes all prior correspondence, negotiations, and agreements, if any, whether oral or written, between the Parties concerning such subject matter. There are no contemporaneous oral agreements, and there are no representations or warranties between the parties not contained in this Amendment. Except as modified herein, the terms and provisions of the Lease shall remain in full force and effect, and the Lease, as modified by this Amendment shall be binding upon and shall inure to the benefit of the Parties, their successors and permitted assigns. Any capitalized terms not otherwise defined herein shall have the meaning(s) ascribed to them in the Lease. This Amendment may be executed and delivered in one or more counterparts.


**[Signatures appear on the following page.]**

EXECUTED this 13<sup>th</sup> day of July, 2011, to be effective as of the Effective Date.


**CALHOUN PORT AUTHORITY**

  
\_\_\_\_\_  
Randy L. Boyd, Board Chair  
Calhoun Port Authority

**ATTEST:**

  
\_\_\_\_\_  
H. C. Wehmeyer, Jr., Board Secretary  
Calhoun Port Authority

**HAWK FIELD SERVICES, LLC,**  
an Oklahoma limited liability company

By:   
\_\_\_\_\_  
Name: R. D. Michele  
Title: President

**FIELDNOTE DESCRIPTION**  
**12.43 ACRES**

**STATE OF TEXAS            }**  
**COUNTY OF CALHOUN       }**

All of that certain tract or parcel containing 12.43 acres situated in the Thomas Cox Survey, Abstract No. 10 of Calhoun County, Texas and being a part of the same property described as 169.965 acres in Exhibit A-1 of Special Warranty Deed from E. S. Joslin, LP to the Calhoun County Navigation District, recorded in Volume 376, Page 661 of the Official Records of Calhoun County, Texas. This 12.43 acres is more particularly described by metes and bounds as follows:

**BEGINNING** at an existing 5/8 inch iron rod located at an interior corner of the above referenced 169.965 acre tract and at the Southwest corner of the residue of a 200 acre tract recorded in Volume 256, Page 449 of the Calhoun County Deed Records and for the Northwest corner (X = 2,754,864.76; Y = 13,427,904.02) of this 12.43 acres being described;

**THENCE** North 87° 33' 20" East, with an interior line of the said 169.965 acre tract and a South line of the said residue tract, a distance of 578.82 feet to a 5/8 inch iron rod with plastic cap set for the Northeast corner of this 12.43 acres being described;

**THENCE** South 02° 26' 40" East, a distance of 248.15 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 12.43 acres being described;

**THENCE** South 86° 56' 20" West, a distance of 78.20 feet to a 5/8 inch iron rod with plastic cap set for an interior corner of this 12.43 acres being described;

**THENCE** South 02° 26' 40" East, a distance of 629.56 feet to a 5/8 inch iron rod with plastic cap set for the Southeast corner of this 12.43 acres being described;

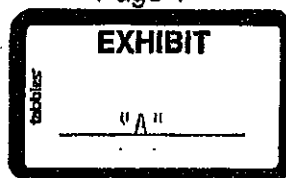
**THENCE** South 61° 39' 55" West, a distance of 109.20 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 12.43 acres being described;

**THENCE** South 87° 24' 22" West, a distance of 401.29 feet to a 5/8 inch iron rod with plastic cap set for the Southwest corner of this 12.43 acres being described;

**THENCE** North 02° 30' 43" West, a distance of 259.43 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 12.43 acres being described;

**THENCE** North 90° 00' 00" East, a distance of 177.12 feet to a 5/8 inch iron rod with plastic cap set for an interior corner of this 12.43 acres being described;

Page 1



**FIELDNOTE DESCRIPTION**  
**12.43 ACRES**

(continued)

**THENCE** North 01° 34' 07" West, a distance of 246.96 feet to a 5/8 inch iron rod with plastic cap set for an interior corner of this 12.43 acres being described;

**THENCE** South 90° 00' 00" West, a distance of 181.19 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 12.43 acres being described;

**THENCE** North 02° 30' 43" West, pass an existing 5/8 inch iron rod located at a distance of 130.58 feet and continuing a total distance of 190.58 feet to an existing 5/8 inch iron rod for an interior corner of this 12.43 acres being described;

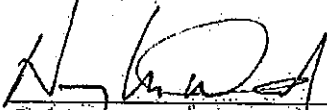
**THENCE** South 87° 34' 00" West, a distance of 130.68 feet to a 5/8 inch iron rod with plastic cap set in the West line of the said 169.965 acre tract for a corner of this 12.43 acres being described;

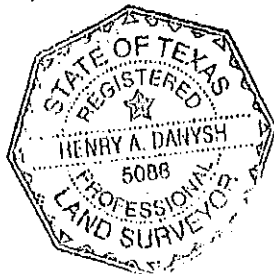
**THENCE** North 02° 26' 00" West, with the West line of the said 169.965 acre tract, a distance of 886.83 feet to a 5/8 inch iron rod with plastic cap set at a corner of the said 169.965 acre tract and the said residue tract for the North corner of this 12.43 acres being described;

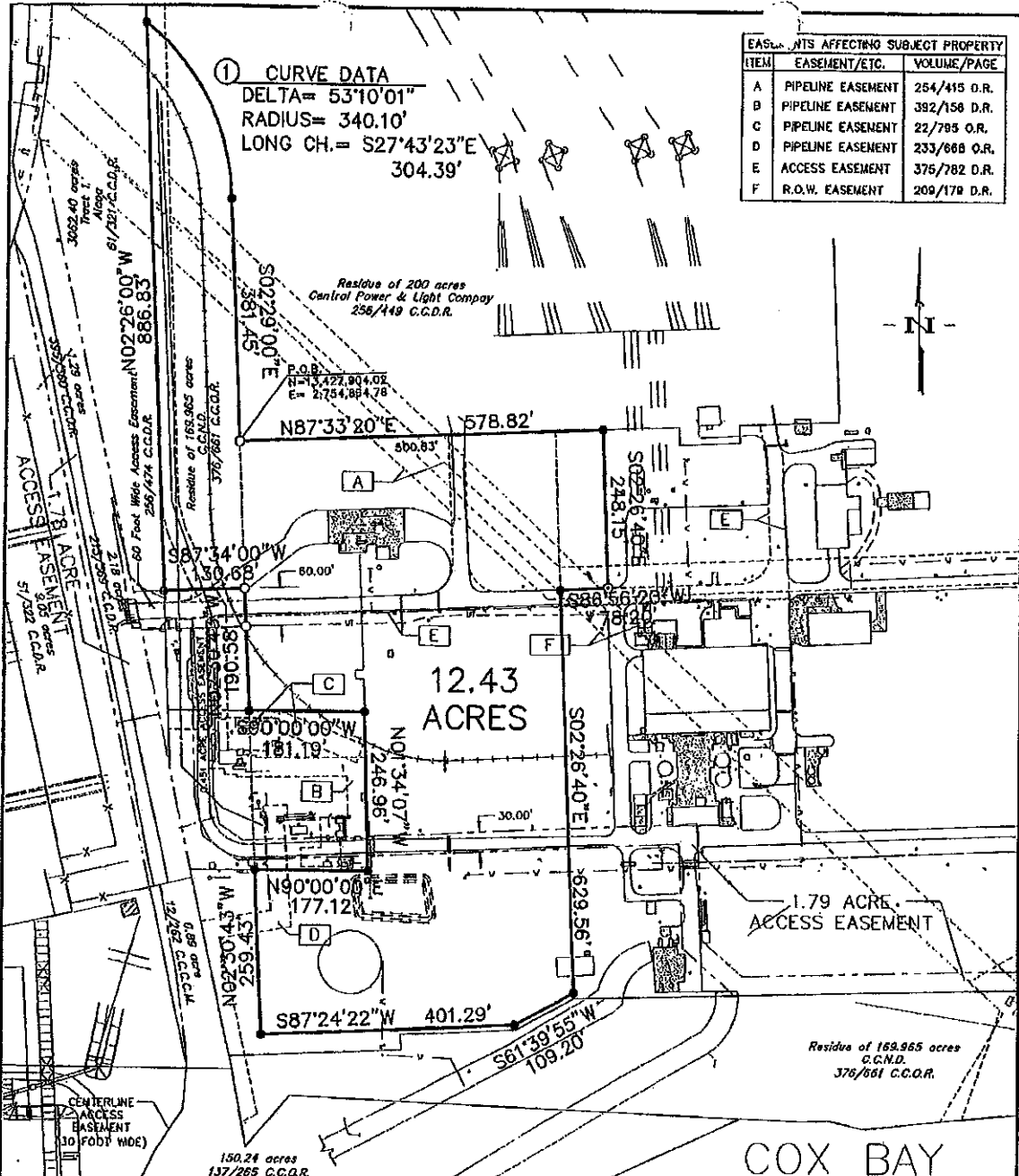
**THENCE** with the common line of the said residue tract and the 169.965 acre tract, along a curve to the right with a Radius of 340.10 feet and Delta of 53° 10' 01" and a Long Chord of South 27° 43' 23" East a distance of 304.39 feet to a 5/8 inch iron rod with plastic cap set at a corner of the said 169.965 acre tract and the said residue tract for a corner of this 12.43 acres being described;

**THENCE** South 02° 29' 00" East, with the common line of the said residue tract and the 169.965 acre tract, a distance of 381.45 feet to the **PLACE OF BEGINNING**, containing within these metes and bounds 12.43 acres.

Coordinates and bearings recited herein are Texas State Plane, South Central Zone NAD'83 relative to NGS Monument "Mitchell 2" (X = 2,750,669.14; Y = 13,426,969.87). This fieldnote description and a plat were prepared from a survey made on the ground under my direction on June 24, 2011.

  
G & W ENGINEERS, INC.  
Henry A. Danysh  
Registered Professional  
Land Surveyor, No. 5088





ITEM	EASEMENT/ETC.	VOLUME/PAGE
A	PIPELINE EASEMENT	254/415 D.R.
B	PIPELINE EASEMENT	382/158 D.R.
C	PIPELINE EASEMENT	22/785 O.R.
D	PIPELINE EASEMENT	233/668 O.R.
E	ACCESS EASEMENT	376/782 D.R.
F	R.O.W. EASEMENT	209/178 D.R.

- NOTES:**
- COORDINATES AND BEARINGS SHOWN HEREON ARE TEXAS STATE PLANE, SOUTH CENTRAL ZONE NAD 83, RELATIVE TO NGS MONUMENT "MITCHELL 2" (X=2,750,669.14; Y=13,426,959.87)
  - DISTANCES AND AREA SHOWN HEREON ARE IN GRID. (APPLY SCALE FACTOR OF 0.99993498 TO CONVERT TO SURFACE)
  - BACKGROUND INFORMATION SHOWN HEREON IS FROM DIGITAL FILES AND NOT FROM ACTUAL FIELD MEASUREMENTS. THE ACCURACY OF THIS INFORMATION IS APPROXIMATE ONLY.

- LEGEND**
- EXISTING 5/8" IRON ROD UNLESS NOTED
  - EXISTING 1/2" IRON ROD
  - SET 5/8" IRON ROD WITH PLASTIC CAP
  - C.C.D.R. CALHOUN COUNTY DEED RECORDS
  - C.C.O.R. CALHOUN COUNTY OFFICIAL RECORDS
  - C.C.C.M. CALHOUN COUNTY COMMISSIONERS COURT MINUTES
  - P.O.B. POINT OF BEGINNING
  - X- EXISTING WIRE FENCE
  - ( ) PLAT OR DEED CALL

**12.43 ACRE SURVEY  
 THOMAS COX LEAGUE  
 ABSTRACT NO. 10  
 CALHOUN COUNTY, TEXAS**

I, HENRY A. DANYSH, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON AND A FIELDNOTE DESCRIPTION PREPARED REPRESENTS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY DIRECTION ON JUNE 24, 2011.

*Henry A. Danysh*  
 G & W ENGINEERS, INC.  
 HENRY A. DANYSH  
 REGISTERED PROFESSIONAL  
 LAND SURVEYOR NO. 5085



**G & W ENGINEERS, INC.**  
 • ENGINEERING • SURVEYING • ARCHITECTURE • PLANNING  
 205 W. LIVE OAK ST. PORT LAVACA, TEXAS 77979 (361) 552-4509  
 1801 7th ST., SUITE 260 BAY CITY, TEXAS 77414 (979) 323-7100

DRAWN BY: J.H.D. RECOM'D BY: H.A.D. DATE: JUNE 24, 2011 SCALE: 1" = 200' JOB NO.: 9171-000 DRAWING NO.: 9171-00OR

**EXHIBIT**

"B"

**SECOND AMENDMENT TO GROUND LEASE AGREEMENT**

This SECOND AMENDMENT to GROUND LEASE AGREEMENT (hereinafter referred to as this "Amendment") between Calhoun Port Authority, a body politic and a governmental subdivision of the State of Texas (hereinafter referred to as "Port"), and NST Point Comfort Holdings, LLC, a Delaware limited liability company authorized to do business in the State of Texas (hereinafter referred to as "NST", and together with Port, the "Parties" and each a "Party") is entered into and agreed effective August 1, 2011 (the "Effective Date").

**RECITALS**

**WHEREAS**, Hawk Field Services, LLC, an Oklahoma limited liability company and Port entered into a Ground Lease Agreement effective as of April 13, 2011 (the "Lease"), under which Port leases to Hawk Field Services, LLC an approximate 10.68 acre tract of land owned by Port; and

**WHEREAS**, a Memorandum of Lease was recorded in the Official Records of Calhoun County as Instrument Number 125824; and

**WHEREAS**, Hawk Field Services, LLC and Port entered into an Amendment to the Ground Lease Agreement that changed the Leased Premises from 10.68 acres to 12.43 acres; and

**WHEREAS**, Hawk Field Services, LLC changed its legal name to BHP Billiton Petroleum (TX Gathering), LLC as evidenced by an Amendment to Registration filed with the Texas Secretary of State on May 31, 2013; and

**WHEREAS**, BHP Billiton Petroleum (TX Gathering), LLC assigned its rights under the Lease to NST Point Comfort Holdings, LLC, which said assignment was consented to by Port on May 27, 2015; and

**WHEREAS**, NST and Port have now agreed to this Second Amendment to Ground Lease Agreement which shall have the terms set forth below for the lease of a 13.38 acre portion of land owned by Port, such land being more fully described in Exhibit "A", which is attached hereto and incorporated herein for any and all purposes; and

**WHEREAS**, the Port has determined that this lease to NST is authorized by law and constitutes a valid public use; and

**WHEREAS**, the parties desire to set forth the terms and conditions under which NST will lease Port's property from Port;





NOW, THEREFORE, the Parties hereto, in consideration of the premises and covenants in the Lease and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each intending to be legally bound, agree as follows:

### AGREEMENTS

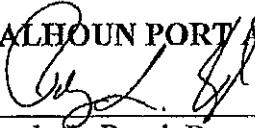
1. Port agrees and acknowledges that Port has determined that this Amendment is authorized by law and the lease of the Leased Premises to NST pursuant to the Lease, as hereby amended, constitutes a valid public use.
2. As of the Effective Date, Exhibit "A" to the Lease, which describes the Leased Premises, is deleted in its entirety and replaced with the Exhibit "A" attached to this Amendment that shows the 13.38 acre tract of land.
3. The annual Land Rent described in Section 5.01 of the Lease shall be adjusted to reflect to change in the Leased Premises. Accordingly, the annual Land Rent payable under Section 5.01 of the Lease is hereby increased to Three Hundred Sixty One Thousand Seven Hundred Sixty Five Dollars and 20/100 (\$361,765.20), subject to adjustment as provided in Section 5.01.
4. Port hereby acknowledges that, as of the Effective Date, NST has paid the annual Land Rent originally due for the years of the Lease that have already occurred. NST hereby agrees to pay to Port on or before October 1, 2015, the amount of Twenty Five Thousand Six Hundred Eighty Eight Dollars and 00/100 (\$25,688.00), representing the remaining balance of the Land Rent due for the current year of the Lease following the adjustment to the annual Land Rent described in Paragraph 3 above.
5. The annual Cargo Through-Put Rental and Guarantee described in Section 5.02 of the Lease shall be increased to a guarantee of 500,000 short tons of cargo, including but not limited to liquid petroleum condensate, during each remaining Fiscal Year of this Lease, beginning eighteen (18) months after the signing of this Second Amendment to Ground Lease.
6. Section 18.08 shall be amended to reflect the following address for NST:  
  
NST Point Comfort Holdings, LLC  
277 Park Avenue, 45<sup>th</sup> Floor  
New York, New York 10172
7. This Amendment shall become effective only upon full execution and delivery of this Amendment by each Party. This Amendment contains the Parties' entire agreement regarding the subject matter covered by this Amendment, and supersedes all prior correspondence, negotiations, and agreements, if any, whether oral or written, between

the Parties concerning such subject matter. There are no contemporaneous oral agreements, and there are no representations or warranties between the parties not contained in this Amendment. Except as modified herein, the terms and provisions of the original Lease dated April 13, 2011 shall remain in full force and effect, and the Lease, as modified by this Amendment shall be binding upon and shall inure to the benefit of the Parties, their successors and permitted assigns. Any capitalized terms not otherwise defined herein shall have the meaning(s) ascribed to them in the Lease. This Amendment may be executed and delivered in one or more counterparts.

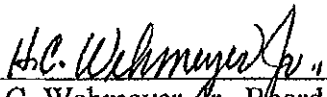
**[Signatures appear on the following page.]**

EXECUTED this 28<sup>th</sup> day of September, 2015, to be effective as of the Effective Date.

CALHOUN PORT AUTHORITY


  
\_\_\_\_\_  
Randy L. Boyd, Board Chair  
Calhoun Port Authority

ATTEST:

  
\_\_\_\_\_  
H. C. Wehmeyer, Jr., Board Secretary  
Calhoun Port Authority

NST POINT COMFORT HOLDINGS, LLC

a Delaware limited liability company

By:   
\_\_\_\_\_  
Name: Steve Ferro  
Title: SVP, Commercial and Business  
Development

**PROPERTY DESCRIPTION**  
**13.38 ACRES**

**STATE OF TEXAS            }**  
**COUNTY OF CALHOUN       }**

All of that certain tract or parcel containing 13.38 acres situated in the Thomas Cox Survey, Abstract No. 10 of Calhoun County, Texas and being a part of the same property described as 169.965 acres in Exhibit A-1 of Special Warranty Deed from E. S. Joslin, LP to the Calhoun County Navigation District, recorded in Volume 376, Page 661 of the Official Records of Calhoun County, Texas. This 13.38 acres is more particularly described by metes and bounds as follows:

**BEGINNING** at an existing 5/8 inch iron rod located at an interior corner of the above referenced 169.965 acre tract and at the Southwest corner of the residue of a 200 acre tract recorded in Volume 256, Page 449 of the Calhoun County Deed Records and for the Northwest corner (X = 2,754,864.76; Y = 13,427,904.02) of this 13.38 acres being described;

**THENCE** North 87° 33' 20" East, with an interior line of the said 169.965 acre tract and a South line of the said residue tract, a distance of 578.82 feet to a 5/8 inch iron rod with plastic cap set for the Northeast corner of this 13.38 acres being described;

**THENCE** South 02° 26' 40" East, a distance of 783.54 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 13.38 acres being described;

**THENCE** South 87° 33' 20" West, a distance of 78.19 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 13.38 acres being described;

**THENCE** South 02° 26' 40" East, a distance of 95.01 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 13.38 acres being described;

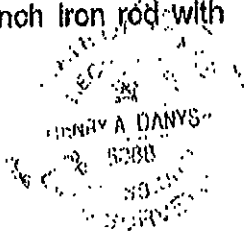
**THENCE** South 61° 39' 55" West, a distance of 109.20 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 13.38 acres being described;

**THENCE** South 87° 24' 22" West, a distance of 401.29 feet to a 5/8 inch iron rod with plastic cap set for the Southwest corner of this 13.38 acres being described;

**THENCE** North 02° 30' 43" West, a distance of 259.43 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 13.38 acres being described;

**THENCE** North 90° 00' 00" East, a distance of 177.12 feet to a 5/8 inch iron rod with plastic cap set for an interior corner of this 13.38 acres being described;

**THENCE** South 90° 00' 00" West, a distance of 181.19 feet to a 5/8 inch iron rod with plastic cap set for a corner of this 13.38 acres being described;



**FIELDNOTE DESCRIPTION  
13.38 ACRES**

(continued)

**THENCE** North 01° 34' 07" West, a distance of 246.96 feet to a 5/8 inch Iron rod with plastic cap set for an interior corner of this 13.38 acres being described;

**THENCE** North 02° 30' 43" West, pass an existing 5/8 Inch Iron rod located at a distance of 130.58 feet and continuing a total distance of 190.58 feet to an existing 5/8 Inch Iron rod for an interior corner of this 13.38 acres being described;

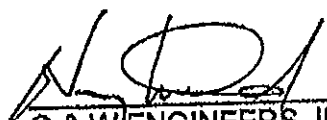
**THENCE** South 87° 34' 00" West, a distance of 130.68 feet to a 5/8 inch Iron rod with plastic cap set in the West line of the said 169.965 acre tract for a corner of this 13.38 acres being described;

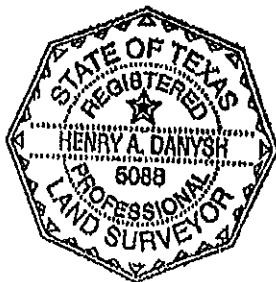
**THENCE** North 02° 26' 00" West, with the West line of the said 169.965 acre tract, a distance of 886.83 feet to a 5/8 inch iron rod with plastic cap set at a corner of the said 169.965 acre tract and the said residue tract for the North corner of this 13.38 acres being described;

**THENCE** with the common line of the said residue tract and the 169.965 acre tract, along a curve to the right with a Radius of 340.10 feet and Delta of 53° 10' 01" and a Long Chord of South 27° 43' 23" East a distance of 304.39 feet to a 5/8 Inch Iron rod with plastic cap set at a corner of the said 169.965 acre tract and the said residue tract for a corner of this 13.38 acres being described;

**THENCE** South 02° 29' 00" East, with the common line of the said residue tract and the 169.965 acre tract, a distance of 381.45 feet to the **PLACE OF BEGINNING**, containing within these metes and bounds 13.38 acres.

Coordinates and bearings recited herein are Texas State Plane, South Central Zone NAD'83 relative to NGS Monument "Mitchell 2" (X = 2,750,669.14; Y = 13,426,969.87). This fieldnote description and a plat were prepared from a survey made on the ground under my direction on September 14, 2015.

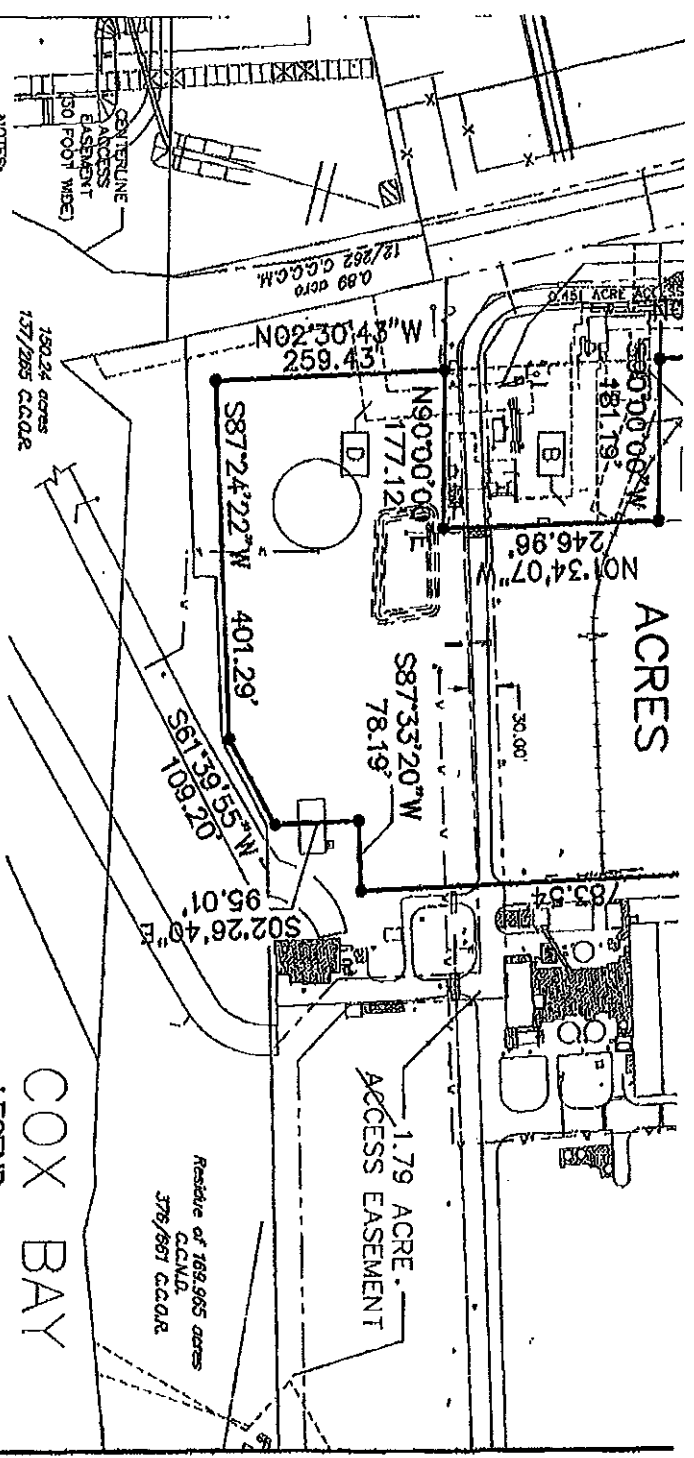
  
G & W ENGINEERS, INC.  
TBPLS Firm No. 10022100  
Henry A. Danysh  
Registered Professional  
Land Surveyor, No. 5088



**EXHIBIT**

"A"

Page 2 of 3



- NOTES
- COORDINATES AND BEARINGS SHOWN HEREON ARE TEXAS STATE PLANE, SOUTH CENTRAL ZONE, NAD 83, RELATIVE TO NGS MONUMENT "MITCHELL 2" (X=2,750,668.14; Y=13,426,989.87)
  - DISTANCES AND AREA SHOWN HEREON ARE IN GRID. (APPLY SCALE FACTOR OF 0.99993598 TO CONVERT TO SURFACE)
  - BACKGROUND INFORMATION SHOWN HEREON IS FROM DIGITAL FILES AND NOT FROM ACTUAL FIELD MEASUREMENTS. THE ACCURACY OF THIS INFORMATION IS APPROXIMATE ONLY.

# 13.38 ACRE SURVEY THOMAS COX LEAGUE ABSTRACT NO. 10 CALHOUN COUNTY, TEXAS

## G & W ENGINEERS, INC.

ENGINEERING • SURVEYING • PLANNING

205 W. LIVE OAK STREET  
PORT LAVACA, TEXAS 77979  
(361) 552-4509  
TBPLS FIRM NO.: 10022100



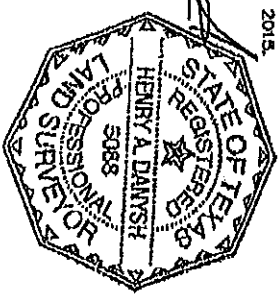
1803A 7th STREET  
BAY CITY, TEXAS 77414  
(979) 323-7100  
TBPLS FIRM NO.: 10022101

### COX BAY

- LEGEND**
- EXISTING 5/8" IRON ROD
  - UNLESS NOTED
  - EXISTING 1/2" IRON ROD
  - SET 5/8" IRON ROD WITH PLASTIC CAP
  - CC&R CALHOUN COUNTY DEED RECORDS
  - CC&L CALHOUN COUNTY OFFICIAL RECORDS
  - CC&CM CALHOUN COUNTY COMMISSIONERS COURT MINUTES
  - P.O.B. POINT OF BEGINNING
  - X- EXISTING WIRE FENCE
  - [ ] PLAT OR DEED CALL

I, HENRY A. DANVISH, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON AND A PROPERTY DESCRIPTION PREPARED REPRESENTS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY DIRECTION ON SEPTEMBER 14, 2015.

G & W ENGINEERS, INC.  
HENRY A. DANVISH  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5088



DRAWN BY: J.H.D.    RECORDED BY: H.A.D.    DATE: JULY 13, 2015    SCALE: 1" = 200'    JOB NO.: 6970-001    DRAWING NO.: 6970-001

November 13 2015 8:05 AM

This Document has been received by this Office for Recording into the Official Public Records. We do hereby swear that we do not discriminate due to Race, Creed, Color, Sex or National Origin.

Filed for Record in:  
Calhoun County  
Honorable Anna Goodran  
County Clerk

Justie Sampson  
Deputy

Instr.: 145514  
Stamps: 9 Page(s)

INSTRUMENT PUBLIC RECORDS stamp page(s)

**LEASE AND EASEMENT AGREEMENT OF  
GENERAL CARGO DOCK RACKS AND PIPELINES  
BY AND BETWEEN THE CALHOUN PORT AUTHORITY  
AND NST POINT COMFORT HOLDINGS, LLC**

THIS LEASE AND EASEMENT AGREEMENT (hereinafter referred to as "Lease") is entered as of 10-1, 2015 (the "Effective Date") between Calhoun Port Authority, a body politic and a governmental subdivision of the State of Texas (hereinafter referred to as "Port"), and NST Point Comfort Holdings, LLC, a Foreign Limited Liability Company authorized to do business in the State of Texas with its place of business at 333 South Grand Avenue, 28<sup>th</sup> Floor, Los Angeles, CA. 90071 (hereinafter referred to as "NST").

**RECITALS**

**WHEREAS**, NST desires to lease a portion of land and pipe rack owned by Port, such land being more fully described in Exhibit "A", which is attached hereto and incorporated herein for any and all purposes. After the pipelines are constructed, a final "as built" description will be filed of record with the Calhoun County Clerk, Calhoun County, Texas to accurately reflect the location of the pipelines; and

**WHEREAS**, Port intends to lease to NST land space in Port's pipe racks, finger pier and dockside land to support the installation of four pipelines totaling 4,530 feet, new pipe rack, dock safety unit and vapor destruction unit for four pipelines, said property being described in Exhibits "A" through "F", and further defined as set forth above; and

**WHEREAS**, the Port has determined that this lease to NST is authorized by law and constitutes a valid public use; and

**WHEREAS**, the parties desire to set forth the terms and conditions under which the Lease can be acquired by NST from the Port;

**NOW, THEREFORE**, the Parties hereto, in consideration of the premises and covenants herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, each intending to be legally bound, agree as follows:

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:**





## AGREEMENTS

In consideration of the mutual agreements herein set forth, Port and NST agree as follows:

**Article 1. Definitions.** As used in this Lease, the following terms (in addition to the terms defined elsewhere herein), and whether singular or plural thereof, shall have the following meanings when used herein with initial capital letters:

“**Business Day**” shall mean a day other than Saturday, Sunday or legal holiday recognized in Port’s Tariffs.

“**Event of Default**” shall have the meaning set forth in Section 14.01 hereof.

“**Fiscal Year**” shall mean the twelve month period beginning July 1<sup>st</sup> of any given year and ending June 30<sup>th</sup> of the following year.

“**Force Majeure**” shall mean:

- (a) acts of God, landslides, lightning, earthquakes, hurricanes, tornadoes, blizzards and other adverse and inclement weather, fires, explosions, floods, acts of a public enemy, wars, blockades, insurrections, riots or civil disturbances, including but not limited to interruption of navigation, acts of terrorism, or other disruption of normal business conditions;
- (b) labor disputes, strikes, work slowdowns, or work stoppages;
- (c) orders or judgments of any federal, state or local court, administrative agency or governmental body, if not the result of willful or negligent action of the party relying thereon;
- (d) power failure and outages affecting the Leased Premises; and
- (e) any other similar cause or event, provided that the foregoing is beyond the reasonable control of the party claiming Force Majeure.

“**Hazardous Materials**” shall have the meaning ascribed to it in Section 4.04 hereof.

“**Impositions**” shall mean, without duplication, (a) all real estate, personal property, rental, water, sewer, transit, use, occupancy and other taxes, assessments, charges, excises and levies which are imposed upon or with respect to (1) the Leased Premises or any portion thereof, or the sidewalks, streets or alley ways adjacent thereto,

or the ownership, use, occupancy or enjoyment thereof or (2) this Lease and the Rent payable hereunder; and (b) all charges for any easement, license, permit or agreement maintained for the benefit of the Leased Premises.

**"Improvements"** shall mean all improvements presently existing or to be constructed on the Leased Premises by NST during the term of this Lease as described in Exhibits "A" through "F".

**"Land Rent"** shall mean the annual Land Rent otherwise described in Section 5.01.

**"Leased Premises"** shall mean (a) the property leased by NST pursuant to this Lease and further described in Exhibits "A" through "F" hereto and on any final "as built" description filed of record with the Calhoun County Clerk of Calhoun County, Texas; and (b) all Improvements thereon or hereafter added to the property described in Exhibits "A" through "F".

**"Legal Requirements"** shall mean any and all (a) judicial decisions, orders, injunctions, writs, statutes, rulings, rules, regulations, promulgations, directives, permits, certificates or ordinances of any governmental authority in any way applicable to NST and the Leased Premises, including zoning, environmental and utility conservation matters, (b) Port's Tariffs, (c) insurance requirements and (d) other documents, instruments or agreements (written or oral) relating to the Leased Premises or to which the Leased Premises may be bound or encumbered.

**"NST Facility"** shall mean the facilities described in the April 13, 2011 Ground Lease Agreement between Calhoun Port Authority and NST Point Comfort Holdings LLC as successor to Hawk Field Services LLC and as amended.

**"Permitted Use"** shall mean the utilization of the Finger Pier Dock and Pipe Racks for construction and maintenance of 4 pipelines, and associated equipment for the transportation and storage of product therein by NST.

**"Port"** shall mean the Calhoun Port Authority, the body politic and governmental subdivision identified in the opening recital of this Lease, and its successors and assigns and subsequent owners of the Leased Premises.

**"Port Facilities"** shall mean all channels, waterways, docks, slips and other facilities and improvements owned, operated or controlled by Port (other than the NST Facility) which are necessary for access to, or the use and operation of, the NST Facility as contemplated hereunder.

**"Port's Tariffs"** shall mean the rates, rules, regulations, policies and tariffs issued, adopted, amended and reissued by Port from time to time (including, without limitation, Tariff No. 003).

“Rent” shall mean Land Rent and any other tariffs or other amounts payable hereunder.

“Right-of-Ways” shall mean right-of-ways, now or hereafter defined and granted in separate instruments, to Port’s general cargo dock and railroad spur(s).

“Term” shall mean a 26 year period beginning October 1, 2015 and ending at midnight September 30, 2041.

**Leased Premises.**

**Section 2.01. Description of the Leased Premises.** Subject to the provisions of this Lease, Port hereby leases, demises and lets to NST and NST hereby leases from Port, the Leased Premises. Both parties acknowledge that Port shall have the right to use the Leased Premises in any manner that will not interfere with NST’s Permitted Use thereof nor will it curtail NST’s capacity to transport product through its pipes located within the Leased Premises. The Port shall be permitted to make improvements, alterations, repairs or take emergency action in, on or over the leased property or, if found to be necessary in the discretion of the Port, to relocate the Improvements, which cost of relocation shall be negotiated at the time a relocation is required. Any rental due shall be suspended until relocation is completed.

**Article 3. Term.**

This lease shall be effective as of the Effective Date and shall continue throughout the Term.

Section 3.01 If NST holds over and continues in possession of the Leased Premises after the lease term expires, the holding over may be considered by Port and at the Port’s option a month-to-month tenancy binding NST to all terms and conditions as set forth in this Lease.

**Article 4. Use.**

**Section 4.01. Permitted Use.** NST shall use the Leased Premises for the development and operation of any Permitted Uses under this Lease, including, without limitation, the construction, operation and maintenance of four (4) pipelines, two vessel loading arms, dock safety unit and a vapor destruction unit within the Leased Premises, and the transportation of product there through.

**Section 4.02. Continuous Operation.** NST will occupy and continually use the Leased Premises solely for any or all of the Permitted Uses and in strict compliance with all Legal Requirements. This Lease shall terminate in the event NST completely abandons the use of the Leased Premises for a continuous period

of 180 days unless excused by Force Majeure. Abandonment shall be defined as no activity by NST or if NST is not paying the minimum through-put charges.

**Section 4.03. Specifically Prohibited Use.** NST will not (a) use, occupy or permit the use or occupancy of the Leased Premises or use Port's other property for any purpose or in any manner which is or may be, directly or indirectly, (1) inconsistent with the requirements of this Lease, (2) violative of any of the Legal Requirements, (3) dangerous to life, health, the environment or property, or a public or private nuisance or (4) disruptive to the activities of any other tenant or occupant of property adjacent to the Leased Premises, (b) commit or permit to remain any waste to the Leased Premises or (c) commit, or permit to be committed, any action or circumstance in or about the Leased Premises which, directly or indirectly, would or might justify any insurance carrier in canceling the insurance policies maintained by NST on the Leased Premises and Improvements thereon. Port hereby confirms to NST that the use of the Leased Premises for the Permitted Use shall not constitute a prohibited use hereunder, including, without limitation, the requirements of Section 4.04 hereof, so long as the same is conducted in compliance with applicable Legal Requirements.

**Section 4.04. Environmental Restrictions.** NST shall not cause or permit any Hazardous Materials or industrial solid wastes to be generated, treated, stored, manufactured, disposed or released on or about the Leased Premises or transferred or transported to the Leased Premises, in material contravention of applicable legal requirements. Any use of Hazardous Materials by any person on the Leased Premises shall be in strict conformance with all legal requirements and shall not cause the Leased Premises to be subject to remedial obligations to protect health or the environment. The terms "Hazardous Materials" shall mean any flammables, explosives, radioactive materials, hazardous waste and hazardous constituents, toxic substances or related materials, including substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "solid wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.A. Sec. 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Sec. 5101, et seq.; the Resources Conservation and Recovery Act, 42 U.S.C.A. Sec. 6901, et seq.; the Toxic Substance Control Act, as amended, 15 U.S.C.A. Sec. 2601 et seq.; Grantor's Tariffs; the Solid Waste Disposal Act, Chapter 361 of the Health and Safety Code of Texas; or any other legal requirement.

**Section 4.05. Notification of Potential Liability Triggering Event.** Within two (2) business days following receipt thereof, NST shall notify and provide Port with all copies of written notices, demands, lawsuits, or other correspondence from any federal, state or local governmental agency or private party related to the following as applicable to the Leased Premises:

- (a) The violation of any federal, state, or local statute or regulation;
- (b) The loss of any operating permit;
- (c) Any enforcement action undertaken by any federal, state or local governmental agency, or any private party;
- (d) The institution of any lawsuit by any governmental entity or any private party; or
- (e) The service of a potentially responsible party demand letter from any private or governmental party.

**Section 4.06. Consequences of NST's Violation of Environmental Legal Requirements.** In the event NST's violation of environmental Legal Requirements expose Port to fines or penalties as the owner of the Leased Premises, NST shall provide the defense of the Port with respect to such fines and penalties under the appropriate regulatory, administrative, or judicial procedures, and will pay any such fines or penalties timely and promptly after completion of any such defensive or mitigative proceedings, including appeals, if any. In the event of NST's unreasonably repeated conviction of the same violation of environmental Legal Requirements within any twelve month period, Port may re-open negotiations regarding the Term and Land Rent under this Lease.

**Section 4.07. INDEMNIFICATION.** EXCEPT WHERE THE PORT IS NEGLIGENT OR TO THE EXTENT IT RELATES TO A CONDITION EXISTING AS OF THE EFFECTIVE DATE, IT IS EXPRESSLY AGREED AND UNDERSTOOD THAT NST SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS PORT, ITS EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, AND BOARD MEMBERS, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES (INCLUDING WITHOUT LIMITATION REASONABLE LEGAL FEES, COSTS AND EXPENSES), ENFORCEMENT ACTIONS, OR PENALTIES, ARISING OUT OF THE PLACEMENT, TRANSPORTATION, USE, MANUFACTURE, HANDLING, CREATION, STORAGE, TREATMENT, DISCHARGE, OR RELEASE OF ANY HAZARDOUS MATERIALS TO, ON OR FROM THE LEASED PREMISES DURING THE TERM OF THIS LEASE BY NST, OR NST'S AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS OR INVITEES.

**Article 5. Rent.**

**Section 5.01. Land Rent.** NST shall lease from Port the Leased Premises, a total of 4530 feet at \$1.75 per foot per year for an annual payment of \$7,927.50 for a

one year period. A one-time administrative fee of \$2,500.00 shall also be due and payable at the time of execution of this Easement.

**Section 5.02. Place of Payment.** Rental due hereunder shall be paid to Port at its address for notice hereunder or to such other person or at such other address in Calhoun County, Texas, as Port may from time to time designate in writing. Rent shall be paid in legal tender of the United States of America without notice, demand, abatement, deduction or offset except as herein provided.

**Section 5.03. Delinquent Payments.** All Rent and other payments required of NST hereunder which are not paid within ten (10) days following receipt of written notice from Port shall bear interest at the maximum rate allowed by law (or, if there is no maximum rate, at ten percent (10%) per annum) from the date due until the date paid. In no event, however, shall the charges permitted under this Section or elsewhere in this Lease, to the extent any or all of the same are considered to be interest under applicable law, exceed the maximum rate of interest allowable under applicable law.

**Section 5.04. Other Charges:** NST shall comply with and shall pay all local, state and federal taxes (including without limitation, income, franchise, gross receipts, sales, use, excise and real and personal property taxes), governmental charges of any kind whatsoever, payments in lieu of taxes, assessments, special assessments, Licenses, registration fees, freight, and transportation charges and any other charges imposed, assessed, levied or liabilities incurred with respect to the ownership, the possession or the use of the Leased Premises or pipelines, any payment of the Lease payments or any other payments by NST and any penalties, fines or interest imposed on any of the foregoing (collectively, the "Charges") during the Lease term.

**Section 5.05. NST to Control Charges.** Port shall, to the maximum extent permitted by law, permit NST to pay directly to the relevant taxing or other authorities or third parties all charges due under this Article 5, if NST so requests.

a. NST may, at NST's expense and in NST's or Port's name, in good faith contest any charges (and Port shall cooperate fully in any such contest) and, in the event of any such contest, may permit such charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Port shall notify NST that, in the reasonable opinion of Port, by nonpayment of any such charges the interest of Port in the Lease will be materially endangered or any part thereof will be subject to loss or forfeiture, in which event NST shall promptly pay any such charges.

b. NST agrees to conduct any such contest or appeal in a reasonable manner and further agrees that it will not enter into any settlement or compromise that would obligate Port to make any payment or to take or refrain from taking any action, other than ministerial acts.

c. All rebates, refunds or other return of charges shall be paid directly to NST, or if received by the Port, shall be promptly paid over to NST.

**Article 6. Construction, Ownership and Operation of Improvements.**

**Section 6.01. Title to Improvements.** All Improvements are the property of NST. At the expiration of the Term or termination of this Lease, NST may remove such Improvements; and NST shall repair all damage, ordinary wear and tear excepted to the Leased Premises caused by such removal at NST's cost, expense and liability. At the time of removal NST shall be required to restore the Leased Premises to the reasonably unimproved condition it existed as of the Effective Date. In the event that NST fails to remove its Improvements within one hundred and eighty (180) days of the expiration or earlier termination of the Lease, then, at Port's election (i) NST's rights, title and interest in and to such Improvements shall be vested in Port without the necessity of executing any conveyance instruments, or (ii) Port shall be entitled to remove and dispose of such Improvements, in a commercially reasonable manner, at NST's cost, expense and liability.

**Section 6.02. Permits.** NST shall obtain and maintain in effect at all times during the Term all permits, licenses and consents required or necessary for the construction, installation, maintenance, use and operation of the Improvements and NST's use of and operations at the Leased Premises.

**Section 6.03. Condition of Leased Premises.** NST acknowledges that it has independently and personally inspected the Leased Premises and that it has entered into this Lease based upon such examination and inspection. NST accepts the Leased Premises in its present condition, "AS IS, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED," other than the warranty of quiet enjoyment; specifically, without limiting the generality of the foregoing, without any warranty of (a) the nature or quality of any construction, structural design or engineering of any Improvements currently located at or constituting a portion of the Leased Premises, (b) the quality of the labor and materials included in any such Improvements, or (c) the soil and environmental conditions existing at the Leased Premises and the suitability of the Leased Premises for any particular purpose or developmental potential. Port shall not be required to make any Improvements to the Leased Premises or to repair any damages to the Leased Premises.

**Section 6.04. Repair and Maintenance.** NST shall, consistent with industry practices maintain the Leased Premises at all times during the Term in a good, clean, safe, operable and well-kept condition, and will not commit or allow to remain any waste or damage to any portion of the Leased Premises. Additionally, NST shall be responsible for its Pro-rata Share (as hereinafter defined) of the costs incurred for the maintenance to the Port's Pipe Racks, including, but not limited to, all regular and routine maintenance of sandblasting and painting (herein after referred to as Maintenance Costs"). For purposes of this Lease, NST's "Pro-rata Share" of the Maintenance Costs shall be a percentage of such Maintenance Costs, the numerator of which shall be 4530 feet (the number of linear feet NST has a right to use under this Lease in the Port's Pipe Racks) and the denominator of which is the total number of linear feet contained in the Port's Pipe Racks, NST shall pay its Pro-rata Share of the Maintenance Costs within forty five (45) days after receipt of an invoice from the Port.

**Section 6.05. Laborers and Mechanics.** NST shall pay for all labor and services performed for, materials used by or furnished to NST, or used by or furnished to any contractor employed by NST with respect to the Leased Premises and hold Port and the Leased Premises harmless and free from any liens, claims, encumbrances or judgments created or suffered by NST. If NST elects to post a payment or performance bond or is required to post an improvement bond with a public agency in connection with the above, NST agrees to include Port as an additional obligee thereunder.

**Article 7. Impositions.** During the Term, NST shall pay or cause to be paid as and when the same shall become due, all Impositions. Impositions that are payable by NST for the tax year in which Commencement Date occurs as well as during the year in which the Term ends shall be apportioned so that NST shall pay its proportionate share of the Impositions payable for such periods of time. Where any Imposition that NST is obligated to pay may be paid pursuant to law in installments, NST may pay such Imposition in installments as and when such installments become due. NST shall deliver to Port evidence of payment of all Impositions NST is obligated to pay hereunder, concurrently with the making of such payment. NST shall, within 60 days after payment of any Imposition, deliver to Port copies of the receipted bills or other evidence reasonably satisfactory to Port showing such payment.

**Article 8. Transfer by NST.**

**Section 8.01. General.** NST shall not effect or suffer any Transfer without the prior written consent of Port. Any attempted Transfer without such consent shall be void and of no effect. If NST desires to effect a Transfer, it shall deliver to Port written notice thereof in advance of the date on which NST proposes to make the Transfer, together with all of the terms of the proposed Transfer and the identity of the proposed Transferee. Port shall have 30 days following receipt of the notice



and information within which to notify NST in writing whether Port elects (a) to refuse to consent to the Transfer and to continue this Lease in full force and effect as to the entire Leased Premises or (b) to permit NST to effect the proposed Transfer. If Port fails to notify NST of its election within said 30 day period, Port shall be deemed to have elected option (b). The consent by Port to a particular Transfer shall not be deemed a consent to any other Transfer. Notwithstanding the foregoing, NST may Transfer this Lease to any affiliate of NST, meaning any person or entity controlling, controlled by or under common control with NST, or a successor to all or substantially all of NST's assets, each without Port's consent. If a Transfer occurs without the prior written consent of Port, Port may nevertheless collect Rent from the Transferee and apply the net amount collected to the Rent payable hereunder, but such collection and application shall not constitute a waiver of the provisions hereof or a release of NST from the further performance of its obligations hereunder. The parties acknowledge herein that they may enter into a letter agreement pre-approving any potential assignees.

**Section 8.02. Liens.** Without in any way limiting the generality of the foregoing, but subject to the following Section 8.03, NST shall not grant, place or suffer, or permit to be granted, placed or suffered, against all or any part of the Leased Premises or NST's leasehold estate created hereby, any lien, security interest, pledge, conditional sale contract, claim, charge or encumbrance (whether constitutional, contractual or otherwise) and if any of the aforesaid does arise or is asserted, NST will, promptly upon demand by Port and at NST's expense, cause same to be released.

**Section 8.03. Construction Financing.** In the event the Improvements or the Lease are used as collateral for construction financing, NST shall give notice of such lien to the Port within 30 days of creation of such lien.

**Article 9. Access by Port.** Port, its employees, contractors, agents and representatives, shall have the right (and Port, for itself and such persons and firms, hereby reserves the right) to enter the Leased Premises during reasonable business hours and upon reasonable notice (a) to inspect the Leased Premises, (b) to show the Leased Premises to prospective purchasers or tenants, (c) to determine whether NST is performing its obligations hereunder and, if it is not, to perform same at Port's option and NST's expense or (d) for any other reasonable purpose. In an emergency, Port (and such persons and firms) may use any means to open any door into or in the Leased Premises without any liability therefor. Entry into the Leased Premises by Port or any other person or firm named in the first sentence of this Article for any purpose permitted herein shall not constitute a trespass or an eviction (constructive or otherwise), or entitle NST to any abatement or reduction of Rent, or constitute grounds for any claim (and NST hereby waives any claim) for damages for any injury to or interference with NST's business, for

loss of occupancy or for consequential damages, but Port shall not unreasonably interfere with NST's use or quiet enjoyment of the Leased Premises.

**Article 10. Insurance.**

**Section 10.01.** NST shall procure and maintain continuously in effect with respect to the Leased Premises, insurance against liability for injuries to or death of any persons or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Leased Premises or any part thereof, providing coverage with a combined single limit of \$10,000,000 for injuries to or death of persons or damage to property per occurrence, or in such other amounts and with such other coverages as shall at the time be in accordance with general industry practice for similar facilities and operations of the type and scope of the Leased Premises. In the event of a dispute between the Port and NST as to general industry practice for insurance coverages, the matter may be referred by either party to an independent insurance broker with expertise in industrial insurance for such broker's independent determination of the prudent insurance requirements for such facilities and such determination shall be final and binding on the parties hereto for a period of five years. All such policies of insurance shall designate the Port as a named insured. NST shall furnish to Port a copy of the policy of insurance designating the Port as a named insured within thirty days of the date of execution hereof. In the event NST changes policies, a copy of the new policy designating the Port as a named insured shall be furnished to the Port within ten (10) days.

**Section 10.02. Self-Insurance.** NST may at any time during the Lease Term substitute self-insurance for any insurance coverage required by the terms of this Lease Agreement, to be provided by NST or any affiliate of NST; provided, however, that NST or the relevant affiliate can provide to Port filings with the Securities and Exchange Commission or other audited financial statements demonstrating that NST or the relevant affiliate had as of the end of its most recent fiscal year a consolidated net worth of at least Five Hundred Million Dollars (\$500,000,000).

**ARTICLE 11. INDEMNITY.**

**EXCEPT WHERE THE PORT IS NEGLIGENT OR ENGAGES IN WILLFUL MISCONDUCT FOR ANY CAUSES OF DAMAGE, NST HEREBY RELEASES AND DISCHARGES PORT, ITS SUCCESSORS AND ASSIGNS, AND ALL OF ITS RESPECTIVE OFFICERS, DIRECTORS, COMMISSIONERS, AND THEIR SUCCESSORS IN OFFICE, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES AND AGENTS, HEREINAFTER COLLECTIVELY AND SEVERALLY REFERRED TO AS "INDEMNITEES" FROM AND**

AGAINST ALL LIABILITY FOR, AND ASSUMES THE RISK OF ALL LOSSES, EXPENSES, LIENS, CLAIMS, DEMANDS, DAMAGES AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER WHATSOEVER FOR DAMAGE TO THE PROPERTY OF INDEMNITEE AND OF NST, AND FOR THE PERSONAL INJURY TO OR DEATH OF ANY PERSONS (INCLUDING BUT NOT LIMITED TO PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF PORT) AND/OR DAMAGE TO ANY PROPERTY (INCLUDING BUT NOT LIMITED TO PROPERTY BELONGING TO PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) AND FOR ANY OTHER LIABILITY, DAMAGES, FINES OR PENALTIES (EXCEPT WHERE REIMBURSEMENT FOR FINES OR PENALTIES IS PROHIBITED BY APPLICABLE LAW), INCLUDING COSTS, EXPENSES, PENALTIES AND INTEREST, ATTORNEY FEES AND SETTLEMENTS HEREINAFTER REFERRED TO COLLECTIVELY AND SEVERALLY AS "CLAIMS", ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE AGREEMENT OR THE PERFORMANCE OR FAILURE TO PERFORM THE COVENANTS OF THIS LEASE AGREEMENT, SUBJECT TO THE NEGLIGENCE OR WILFUL MISCONDUCT OF THE INDEMNITIES. THIS INDEMNITY SHALL INCLUDE CLAIMS ARISING OUT OF, BROUGHT BY OR CAUSED, IN WHOLE OR IN PART BY NST, ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF NST, AND NST EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS, HARMLESS FROM ALL "CLAIMS" OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY NST'S, (INCLUDING ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT OR BREACH OF WARRANTY, EXPRESSED OR IMPLIED.

THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL INDEMNITEE FOR A PARTICULAR CLAIM, INsofar AS THAT PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT PRIMARILY FROM THE NEGLIGENCE OR WILLFUL CONDUCT OF THAT INDEMNITEE SEEKING TO ENFORCE THE INDEMNIFICATION.

PORT AND NST ACKNOWLEDGE THAT THIS STATEMENT AND THE FOREGOING INDEMNIFICATION UNDER THIS ARTICLE 11 COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS AND HAS BEEN REVIEWED AND APPROVED BY EACH PARTIES OWN RESPECTIVE INDEPENDENT LEGAL COUNSEL. THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE TERMINATION OF THIS LICENSE.

**Article 12. Casualty Loss.**

**Section 12.01. Obligation to Restore.**

(a) If all or any part of the improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during the Term, NST shall promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed prior to the casualty. NST will perform such restoration with at least as good workmanship and quality as the improvements being restored, and in compliance with the provisions of Article 6 hereof. Notwithstanding the foregoing provisions of this subparagraph (a) to the contrary, if all such improvements are wholly destroyed by any casualty, or are so damaged or destroyed that, in the Parties' good faith judgment reasonably exercised that it would be uneconomic to cause the same to be restored (and the Parties shall meet to make such determination within 90 Business Days after the date the casualty occurred), then NST shall not be obligated to restore such improvements and this Lease shall terminate as of the date the Improvements are removed and the property is restored in accordance with §6.01.

(b) If a casualty loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by NST for the damages arising from such casualty shall be distributed and paid directly to the Party actually performing the restoration of the Leased Premises under Sections 6.01 and 12.01(a), as interest may appear, for all damages to the Leased

Premises or for costs incurred for the restoration of the Leased Premises to its unimproved condition as provided in Section 6.01.

**Section 12.02. Notice of Damage.** NST shall immediately notify Port of any destruction of or damage to the Leased Premises.

**Article 13. Quiet Enjoyment.** NST, on paying the Rent and all other sums called for herein and performing all of NST's other obligations contained herein, shall and may peaceably and quietly have, hold, occupy, use and enjoy the Leased Premises during the Term subject to the provisions of this Lease. Port agrees to warrant and forever defend NST's right to occupancy of the Leased Premises against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, by, through or under Port (but not otherwise), subject to the provisions of this Lease, all matters of record in the Official Records of Calhoun County, Texas, and any unrecorded easements or licenses executed by Port to the extent the foregoing are validly existing and applicable to the Leased Premises.

**Article 14. Default.**

**Section 14.01. Events of Default.** Each of the following occurrences shall constitute an Event of Default by a party under this Lease:

- (a) The failure of a Party to pay any amount due under this Lease, and the continuance of such failure for a period of ten (10) days after receipt of notice from the other Party;
- (b) The failure by a Party to perform, comply with or observe any other agreement, obligation or undertaking of such Party, and the continuance of such failure for a period of thirty (30) days after receipt of notice from the non-defaulting Party specifying such failure, except that if cure is not reasonably possible within such thirty (30) day period, a Party shall not be in default if it promptly commences cure within such period and thereafter diligently pursues cure until completion;
- (c) The filing of a petition by or against NSTt in any bankruptcy or other insolvency proceeding, or seeking any relief under the federal Bankruptcy Code or any similar debtor relief laws; or
- (d) Use of the Leased Premises by Lessee or its successors or assigns for any purpose other than a Permitted Use, as defined in Article 1, and Lessee's failure to cease such impermissible use within thirty (30) days of receipt of notice of such violation from Landlord.

**Section 14.02. Remedies.** Upon the occurrence of an Event of Default, the non-defaulting Party may, in addition to its other remedies, terminate this Lease upon thirty (30) days notice to the other Party; however, such notice shall not be effective if the defaulting party cures the Event of Default within the meaning of Section 14.01(b) above.

**Section 14.03. No Waiver; No Implied Surrender.** Provisions of this Lease may not be waived orally or impliedly, but only by the Party entitled to the benefit of the provision evidencing the waiver in writing. No waiver of any breach by a Party shall constitute a waiver of any subsequent breach.

**Article 15. Right of Reentry.** Upon the expiration or termination of the Term for whatever cause, or upon the exercise by Port of its right to re-enter the Leased Premises without terminating this Lease, NST shall immediately, quietly and peaceably surrender to Port possession of the Leased Premises in the condition and state of repair required under the Lease and NST shall remove the Removable Property in accordance with Section 6.01 hereof. If NST fails to surrender possession as herein required, Port may initiate any and all legal action as Port may elect to dispossess NST and all of its Removable Property and all persons or firms claiming by, through or under NST and all of their Removable Property from the Leased Premises, and may remove from the Leased Premises and store (without any liability for loss, theft, damage or destruction thereto) any such removable Property at NST's cost and expense. For so long as NST remains in possession of the Leased Premises after such expiration, termination or exercise by Port of its re-entry right, NST shall be deemed to be occupying the Leased Premises as a tenant-at-sufferance, subject to all of the obligations of NST under this Lease, except that the Land Rent shall be twice the per day Land Rent in effect immediately prior to such expiration, termination or exercise by Port. No such holding over shall extend the Term. If NST fails to surrender possession of the Leased Premises in the condition herein required, Port may, at NST's expense, restore the Leased Premises to such condition.

**Article 16. Miscellaneous.**

**Section 16.01. Independent Obligations; No Offset.** The obligations of NST to pay Rent and to perform the other undertakings of NST hereunder constitute independent unconditional obligations to be performed at the times specified hereunder, regardless of any breach or default by Port hereunder. NST shall have no right, and NST hereby waives and relinquishes all rights which it might otherwise have, to claim any nature of lien against the Leased Premises or to withhold, deduct from or offset against any Rent or other sums to be paid to Port by NST.

**Section 16.02. Applicable Law.** This Lease shall be governed by, construed and shall be enforceable in accordance with the laws of the State of Texas without

giving effect to the principles of conflict of laws. Venue for any action brought hereunder shall lie in the State District Courts of Calhoun County, Texas.

**Section 16.03. Assignment by Port.** Port shall have the right to assign, in whole or in part, any or all of its rights, titles or interests in and to the Leased Premises or this Lease and, upon any such assignment, Port shall be relieved of all unaccrued liabilities and obligations hereunder to the extent of the interest so assigned.

**Section 16.04. Estoppel Certificates.** From time to time at the request of Port, NST will promptly and without compensation or consideration execute, have acknowledged and deliver a certificate stating (a) the rights (if any) of NST to extend the Term or to expand the Leased Premises, (b) the Rent (or any components of the Rent) currently payable hereunder, (c) whether this lease has been amended in any respect and, if so, submitting copies of or otherwise identifying the amendments, (d) whether, within the knowledge of NST after due investigation, there are any existing breaches or defaults by Port hereunder and, if so, stating the defaults with reasonable particularity and (e) such other information pertaining to this Lease as Port may reasonably request.

**Section 16.05. Signs.** NST shall not install any signs, placards or other advertising or identifying marks upon the Leased Premises or upon the exterior of any Improvements to or constituting a part of the Leased Premises without the prior written consent of Port, which shall not be unreasonably withheld. NST agrees to remove promptly and to the satisfaction of Port (at NST's sole cost and expense) upon the expiration or earlier termination of the Term any and all such signs, placards or other advertising or identifying marks.

**Section 16.06. Relation of the Parties.** It is the intention of the parties to create hereby the relationship of Port and NST, and no other relation is hereby created. Nothing in this Lease shall be construed to make the parties partners or joint venturers or to render either party liable for any obligation of the other.

**Section 16.07. Public Disclosure.** Port is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Open Records Act (Texas Government Code Chapters 551 and 552), and as such Port is required to disclose to the public (upon request) this Lease and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, NST agrees that the disclosure of this Lease or any other information or materials related to the consummation of the transactions contemplated hereby to the public by Port as required by the Texas Open Meetings Act, Texas Open Records Act, or any other Legal Requirement will not expose Port (or any party acting by, through or under Port) to any claim, liability or action by NST.

**Section 16.08. Notices and Billing Address.** All notices and other communications given pursuant to this Lease shall be in writing and shall either be mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, and addressed as set forth in this Lease, or delivered in person to the intended addressee, or sent by prepaid telegram, cable or telex followed by an confirmatory letter. Notice mailed in the aforesaid manner shall become effective three Business Days after deposit; notice given in any other manner, and any notice given to Port, shall be effective only upon receipt by the intended addressee. For the purposes of notice and/or billing, the address of

(a) Port shall be:  
Calhoun Port Authority  
P. O. Box 397  
Point Comfort, Texas 77978  
Attention: Port Director

and

(b) NST shall be:  
NST Point Comfort Holdings, LLC  
10077 Grogans Mill Road, Suite 530  
The Woodlands, TX 77386  
Attention: Chief Operating Officer

Each party shall have the continuing right to change its address for notice hereunder by the giving of 15 days prior written notice to the other party provided however, if NST vacates the location that constitutes its address for notice hereunder without changing its address for notice pursuant to this Lease, then NST's address for notice shall be deemed to be the Leased Premises.

**Section 16.09. Entire Agreement, Amendment and Binding Effect.** This Lease constitutes the entire agreement between Port and NST relating to the precise subject matter of this Lease and all prior agreements relative precisely to the subject matter of this Lease which are not contained herein are terminated. This Lease may be amended only by a written document duly executed by Port and NST, and any alleged amendment which is not so documented shall not be effective as to either party. The provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns; provided, however, that this Section 16.09 shall not negate, diminish or alter the restrictions on Transfers applicable to NST set forth elsewhere in this Lease.

**Section 16.10. Severability.** This Lease is intended to be performed in accordance with and only to the extent permitted by all Legal Requirements. If any provision of this Lease or the application thereof to any person or



circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of the invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Lease and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

**Section 16.11. Construction.** Unless the context of this Lease clearly requires otherwise, (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character; (b) the singular shall include the plural wherever and as often as may be appropriate; (c) the term "includes" or "including" shall mean "including without limitation"; (d) the word "or" has the inclusive meaning represented by the phrase "and/or"; and (e) the words "hereof" or "herein" refer to this entire Lease and not merely the Section or Article number in which such words appear. Article and Section headings in this Lease are for convenience of reference and shall not affect the construction or interpretation of this Lease. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated article or section of this Lease.

**Section 16.12. Authority.** The person executing this Lease on behalf of NST personally warrants and represents unto Port that (a) (if applicable) NST is a duly organized and existing legal entity, in good standing in the State of Texas (b) NST has full right and authority to execute, deliver and perform this lease, (c) the person executing this Lease on behalf of NST was authorized to do so and (d) upon request of Port, such person will deliver to Port satisfactory evidence of his or her authority to execute this Lease on behalf of NST.

**Section 16.13. Incorporation by Reference.** Exhibit "A" hereto is incorporated herein for any and all purposes.

**Section 16.14. Force Majeure.** Port and NST shall be entitled to rely upon Force Majeure as an excuse for timely performance hereunder only as expressly provided herein and shall not be entitled to rely upon Force Majeure as an excuse for timely performance unless the party seeking to rely on Force Majeure (a) uses commercially reasonable efforts to overcome the effects of the event of Force Majeure, (b) gives written notice to the other party within 5 days after the occurrence of the event describing with reasonable particularity the nature thereof or as soon thereafter as reasonable communications will permit, (c) commences performance of its obligation hereunder immediately upon the cessation of the event or restoration of use of the Leased Premises, and (d) gives written notice to the other party within 5 days after the cessation of the event advising the other party of the date upon which the event ceased to constitute an event of Force Majeure.

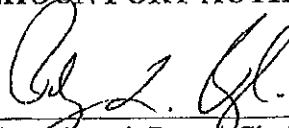
**Section 16.15. Interpretation.** Both Port and NST and their respective legal counsel have reviewed and have participated in the preparation of this Lease. Accordingly, no presumption will apply in favor of either Port or NST in the interpretation of this Lease or in the resolution of the ambiguity of any provision hereof.

**Section 16.16. Multiple Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute but one instrument.

[Signatures follow on Next Page]

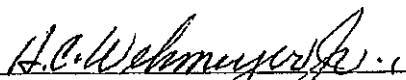
EXECUTED this 9<sup>th</sup> day of ~~October~~ <sup>November</sup>, 2015, and effective this 1<sup>st</sup> day of October, 2015.

**CALHOUN PORT AUTHORITY:**



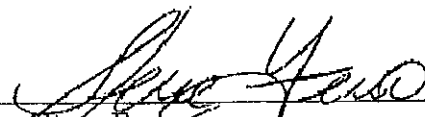
\_\_\_\_\_  
Randy L. Boyd, Board Chair  
Calhoun Port Authority

**ATTEST:**



\_\_\_\_\_  
H. C. Wehmeyer, Jr., Board Secretary  
Calhoun Port Authority

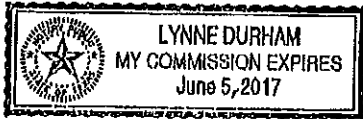
**NST POINT COMFORT HOLDINGS, LLC**

By:  \_\_\_\_\_  
Name: Steve Ferre

Title: SVP, Commercial and Business  
Development

STATE OF TEXAS           §  
                                     §  
COUNTY OF CALHOUN     §

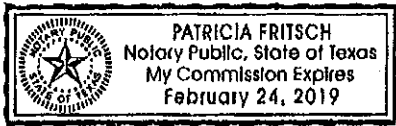
This instrument was acknowledged before me on the 9<sup>th</sup> day of November 2015, by Randy L. Boyd, Board Chair of the Calhoun Port Authority.



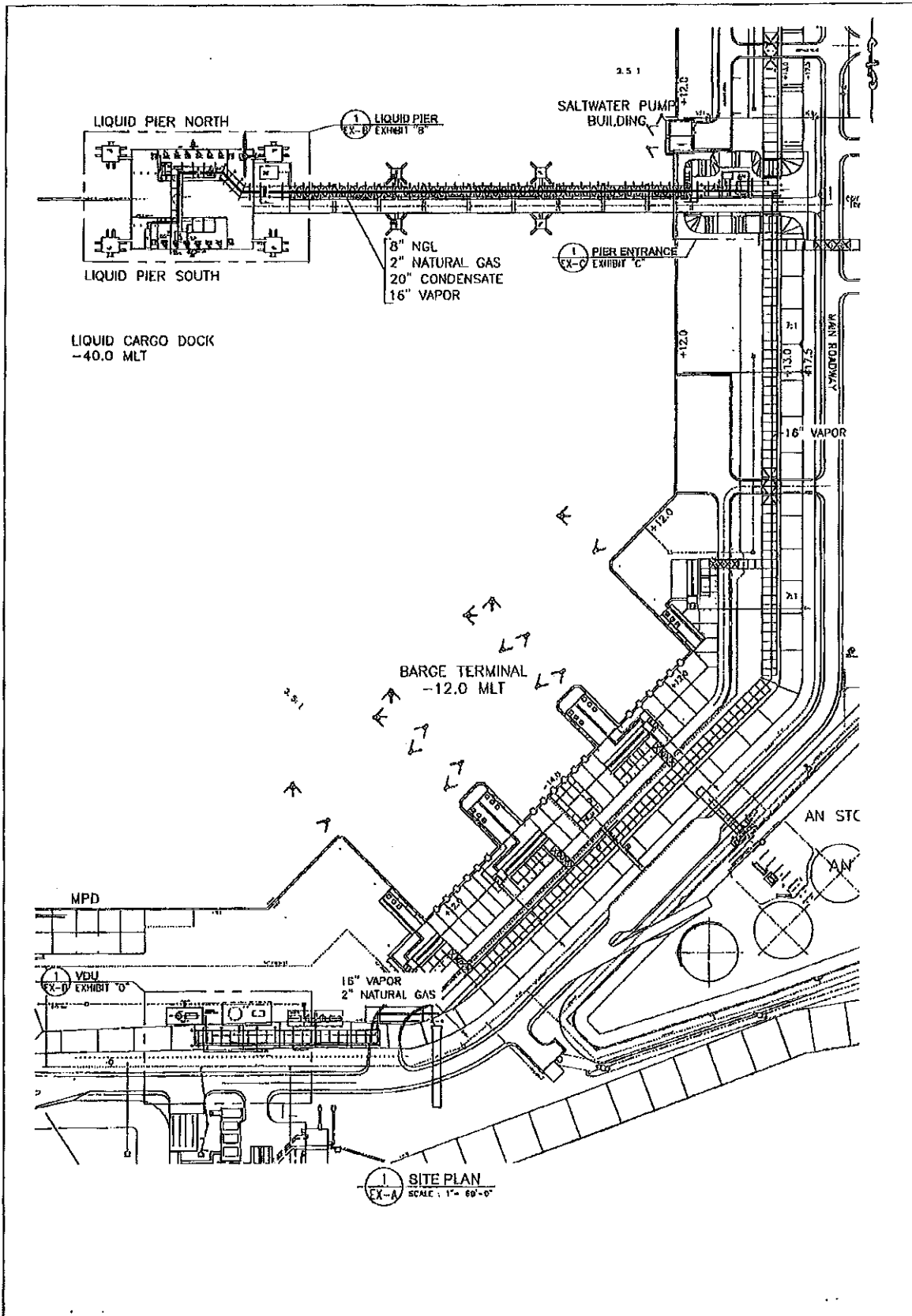
Lynne Durham  
Notary Public in and for the State of Texas

STATE OF TX           §  
                                     §  
COUNTY OF Harris     §

This instrument was acknowledged before me on the 9<sup>th</sup> day of November, 2015, by Steve Arras, of NST Point Comfort Holdings, LLC.

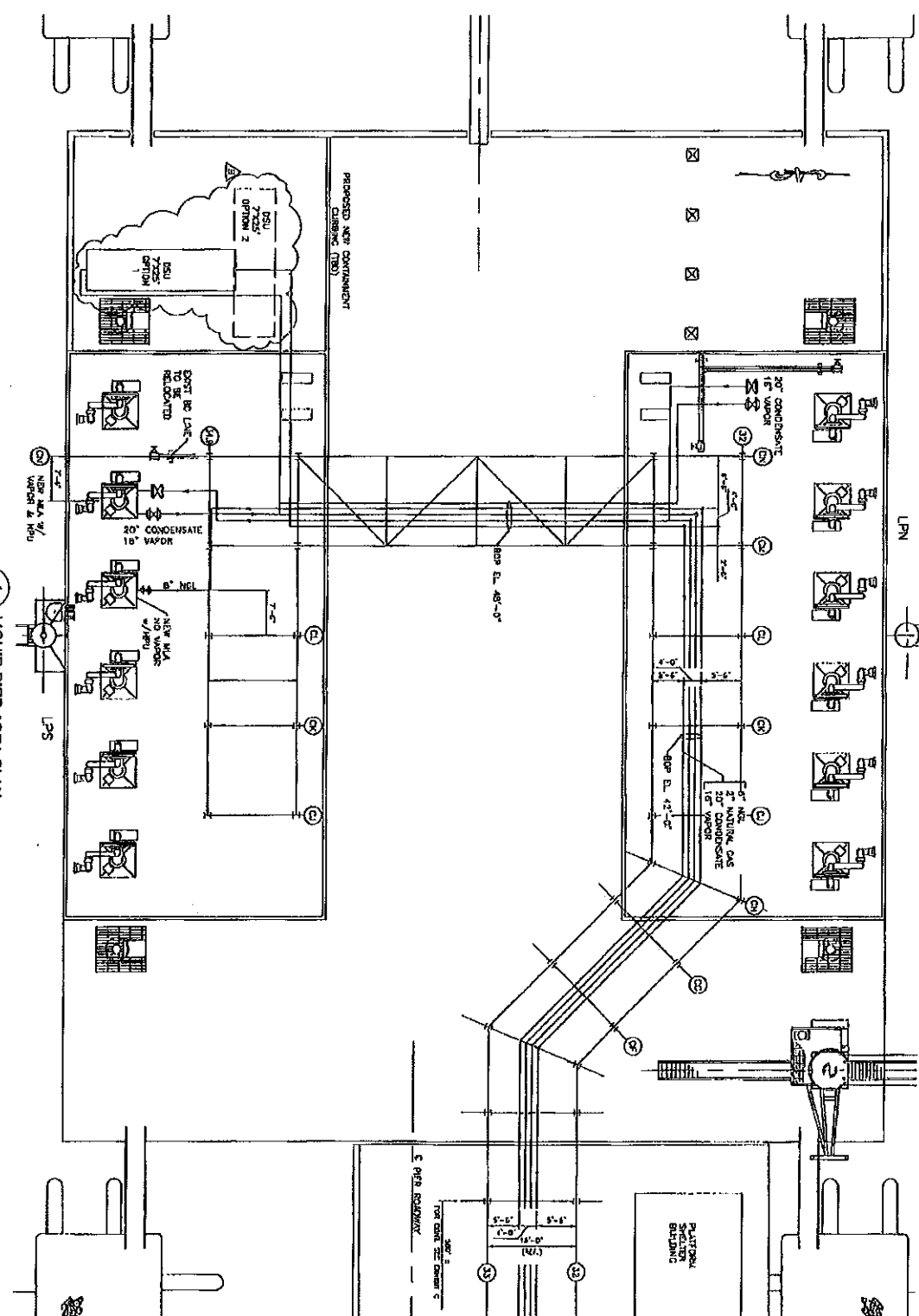


Patricia Fritsch  
Notary Public in and for the State of Texas



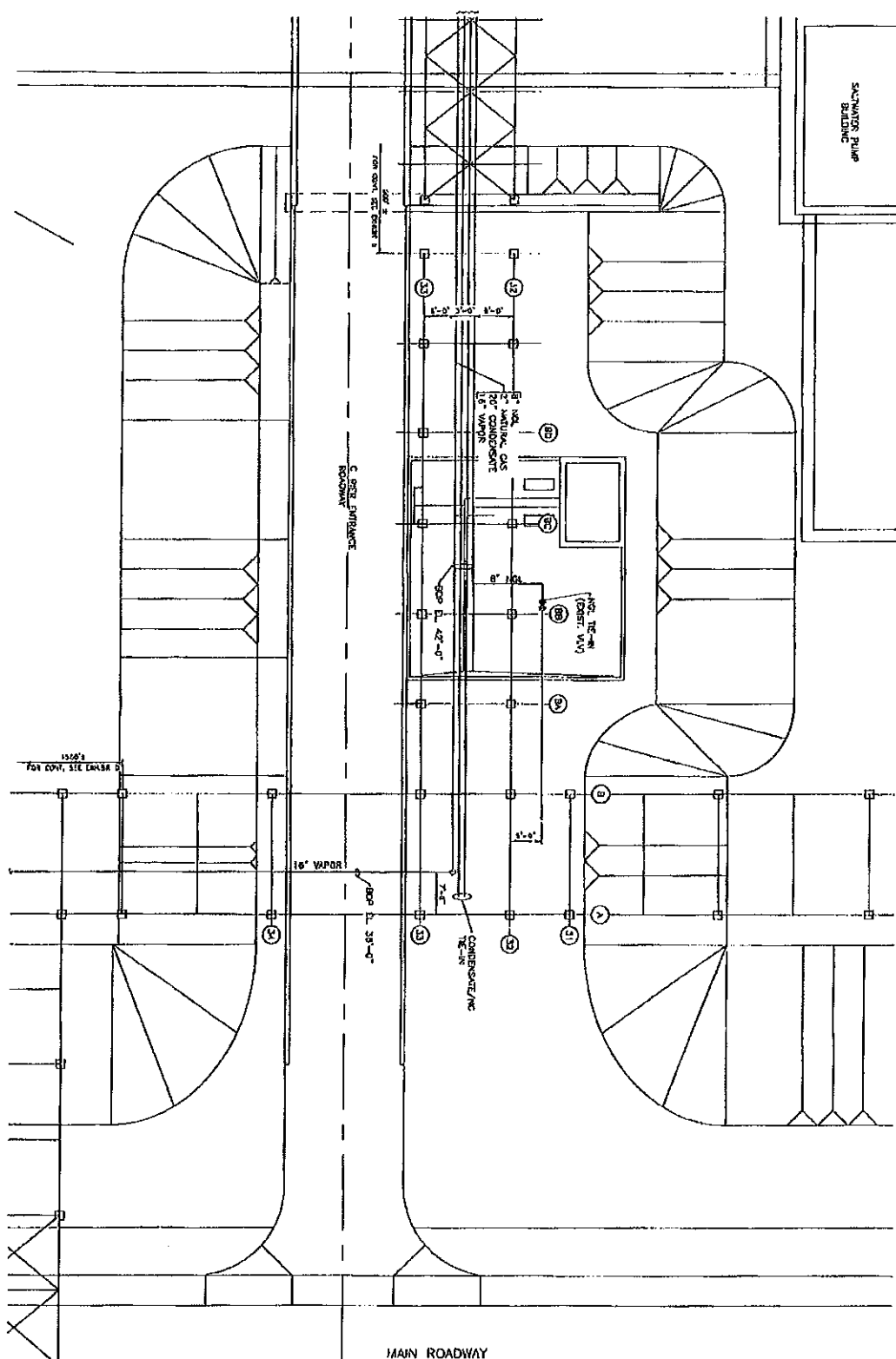
1 SITE PLAN  
EX-A SCALE: 1" = 60'-0"

<b>EXHIBIT "A"</b>		<b>CALHOUN PORT AUTHORITY</b> <b>NST POINT COMFORT HOLDINGS, LLC.</b> <b>CRUDE CONDENSATE TERMINAL</b> <b>MARINE FACILITY SITE PLAN</b> <b>"PRELIMINARY"</b>		Texas Registered Engineering Firm 7-84189 <b>G &amp; W ENGINEERS, INC.</b> REGISTERED PROFESSIONAL ENGINEERS 305 W. Elm St., P.O. Box 1000, Dallas, Texas 75201 (214) 552-4500 8001 7th St., Suite 200, Bay City Texas 77116 (936) 263-7100		<table border="1"> <tr> <td>REV.</td> <td>DATE</td> <td>DESCRIPTION</td> <td>BY</td> <td>CHK.</td> </tr> <tr> <td>1</td> <td>7/23/15</td> <td>PRELIMINARY</td> <td>SM</td> <td>MJS</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>		REV.	DATE	DESCRIPTION	BY	CHK.	1	7/23/15	PRELIMINARY	SM	MJS					
REV.	DATE	DESCRIPTION	BY	CHK.																		
1	7/23/15	PRELIMINARY	SM	MJS																		



1 LIQUID PIER AREA PLAN  
 SCALE: 1/8" = 1'-0"

<b>EXHIBIT "B"</b>		<b>CALHOUN PORT AUTHORITY          NST POINT COMFORT HOLDINGS, L.L.C.          CRUDE CONDENSATE TERMINAL          LIQUID PIER ENLARGED PLAN          "PRELIMINARY"</b>		Texas Registered Engineering Firm 7-08165 <b>G &amp; W ENGINEERS, INC.</b> ENGINEERS ARCHITECTS PLANNERS 605 K. Street 2nd St. Port Lavaca, Texas 77993 (361)552-1200 1001 TIA St., Suite 610 Bay City Texas 77518 (409) 853-1163		<table border="1"> <tr> <td>DATE</td> <td>DESCRIPTION</td> <td>BY</td> <td>CHK</td> </tr> <tr> <td>8/10/15</td> <td>ISSUE OPTICS FOR WU LEGARD</td> <td>SMK</td> <td>WJE</td> </tr> <tr> <td>7/22/15</td> <td>PRELIMINARY</td> <td>SDA</td> <td>WJE</td> </tr> <tr> <td>R/W</td> <td>DATE</td> <td>DESCRIPTION</td> <td>BY</td> </tr> </table>		DATE	DESCRIPTION	BY	CHK	8/10/15	ISSUE OPTICS FOR WU LEGARD	SMK	WJE	7/22/15	PRELIMINARY	SDA	WJE	R/W	DATE	DESCRIPTION	BY
DATE	DESCRIPTION	BY	CHK																				
8/10/15	ISSUE OPTICS FOR WU LEGARD	SMK	WJE																				
7/22/15	PRELIMINARY	SDA	WJE																				
R/W	DATE	DESCRIPTION	BY																				



1 PIER ENTRANCE AREA PLAN  
 EX-C SCALE 1/8" = 1'-0"

PROJECT NO.	1000000000
SHEET NO.	1000000000
DATE	10/20/15
BY	CHC
CHECKED BY	CHC
SCALE	1/8" = 1'-0"
DATE	10/20/15
BY	CHC

EXHIBIT "C"

CALHOUN PORT AUTHORITY  
 NST POINT COMFORT HOLDINGS, LLC  
 CRUDE CONDENSATE TERMINAL  
 PIER ENTRANCE ENLARGED PLAN  
 "PRELIMINARY"

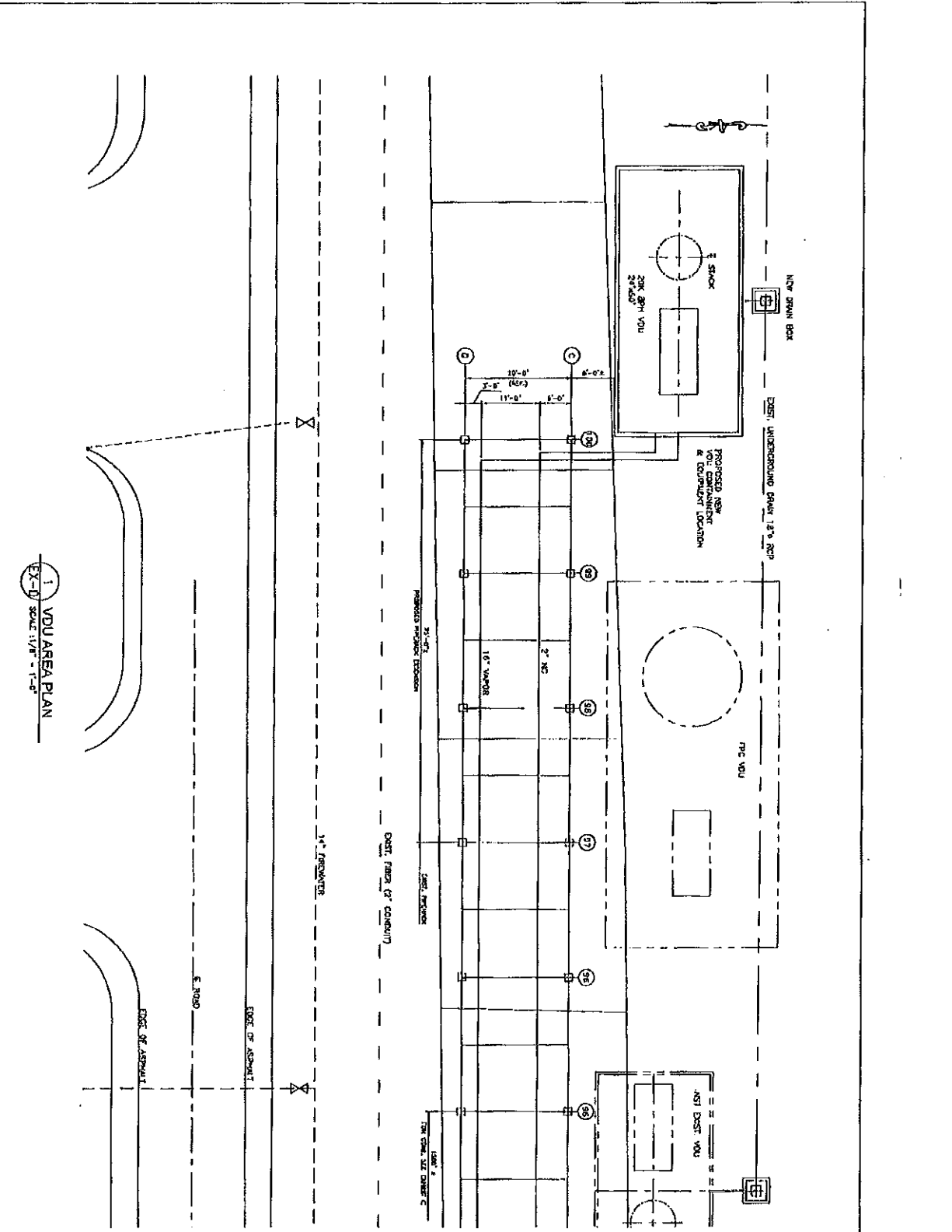
Texas Registered Engineering Firm T-2918

**G & W ENGINEERS, INC.**

REGISTERED SURVEYOR PLANNING

408 N. Olive St. Ft. Worth, Texas 76102 (817) 512-1800  
 1101 7th St., Suite 305 Bay City Texas 77815 (918) 303-7100

REV.	DATE	DESCRIPTION	BY	CHK.
1	7/23/15	PRELIMINARY	CHC	



EX-D VDU AREA PLAN  
SCALE: 1/4" = 1'-0"

EXHIBIT "D"

CALHOUN PORT AUTHORITY  
NST POINT COMFORT HOLDINGS, I.L.C.  
CRUDE CONDENSATE TERMINAL  
VDU AREA ENLARGED PLAN  
"PRELIMINARY"

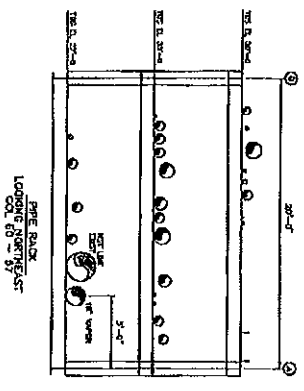
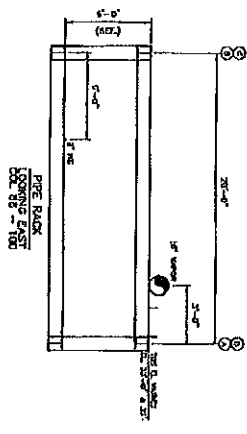
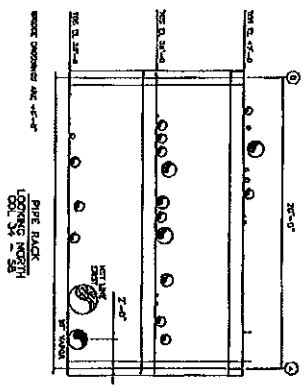
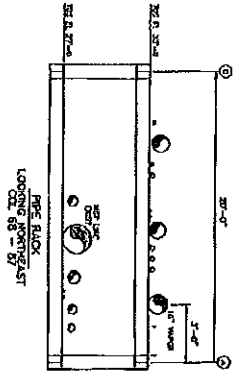
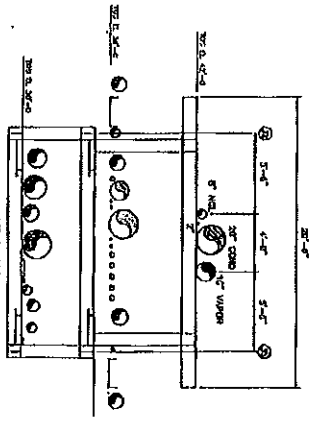
Professional Engineering Firm 7-9119

**G & W** ENGINEERS, INC.  
SURVEYING PLANNING

205 N. Elm Oak St. P.O. Box 1000, Texas 77002 (409) 622-1000  
1808 10th St., Suite 400 Bay City Texas 77418 (409) 222-2100

REV.	DATE	DESCRIPTION	BY	CHK.
1	5/28/15	PRELIMINARY	BOB	U.S.





PROJECT NO. SHEET NO. DATE DRAWN BY CHECKED BY	<b>EXHIBIT "E"</b>	CALHOUN PORT AUTHORITY NST POINT COMFORT HOLDINGS, LLC. CRUDE CONDENSATE TERMINAL PIPING ELEVATION IN RACKS "PRELIMINARY"	Texas Registered Engineer Firm P-0118 <b>G &amp; W ENGINEERS, INC.</b>		1/10/15	PRELIMINARY	SOH	VVS
			201 W. Hwy 90A St. P.O. Box 1000, Texas 77070 (281) 551-4504 1801 7th St., Suite 240 Bay City Texas 77114 (409) 423-7100	REVISIONS DATE DESCRIPTION	REV.	DATE	DESCRIPTION	BY

**Exhibit F**  
**LEASE AND EASEMENT AGREEMENT OF**  
**LIQUID CARGO DOCK, PIPERACKS AND PIPELINES**  
**BY AND BETWEEN THE CALHOUN PORT AUTHORITY ("PORT")**  
**AND NST POINT COMFORT HOLDINGS, LLC ("NST")**

- 1) 20 inch crude/condensate pipeline from an interconnections with an existing NST pipeline starting at the landward end of the Liquid Cargo Dock to the NST 20/16 inch vessel loading arm located on Liquid Pier South – 1,000 feet
- 2) 16 inch vapor return pipeline from NST 20/16 inch vessel loading arm on Liquid Pier South to the Vapor Destruction Unit shown in Exhibit "D" – 3,000 feet
- 3) 8 inch LPG pipeline from pipeline interconnect at landward end of the Liquid Cargo Dock to the 8 inch NST vessel loading arm located on Liquid Pier South - 950 feet
- 4) 2 inch natural gas supply pipeline from existing NST pipeline at landward end of the Liquid Cargo Dock to the NST Dock Safety Unit located on Liquid Pier South
- 5) One dual vessel loading arm for 20 inch crude/condensate and 16 inch vapor return pipelines located on Liquid Pier South
- 6) One vessel loading arm for 8 inch LPG pipeline located on Liquid Pier South
- 7) One Dock Safety Unit located near the dual vessel loading arm noted above
- 8) One Vapor Destruction Unit located East of NST's existing barge VDU's as shown in Exhibit "D".
- 9) The third level pipe rack constructed by NST to support NST and others pipelines from the landward end of the Liquid Cargo Dock to Liquid Piers North and South
- 10) Two loading hose connections on Liquid Pier North
- 11) Access for all instrumentation and electrical utilities to NST facilities. Location(s) to be approved by Port.

November 23 2015 0:22 AM

This Document has been received by this Office for Recording into the Official Public Records. We do hereby swear that we do not discriminate due to Race, Creed, Color, Sex or National Origin.

Filed for Record in  
Calhoun County  
Honorable Anna Goodean  
County Clerk

*Josie Sampson*  
Deputy

Instr.: 145620  
Stamps: 28 Page(s)

## UNDERGROUND PIPELINE EASEMENT AGREEMENT

This Easement Agreement (hereinafter referred to as "Easement") between the Calhoun Port Authority, a governmental agency and body politic operating and existing as a conservation and reclamation Port created pursuant to Article 16, Section 59 of the Constitution of the State of Texas (hereinafter referred to as "Port"), and NST Point Comfort Holdings, LLC, a Foreign Limited Liability Company authorized to do business in the State of Texas with its place of business at ~~333 South Grand Avenue, 28<sup>th</sup> Floor, Los Angeles, CA 90071~~ (hereinafter referred to as "NST"), is effective as of the 4th day of November 2019.

10071 Grogan's Mill Road, Suite 530 The Woodlands, TX 77380

WHEREAS, NST desires two (2) Easements: One being a ten foot (10') wide Temporary Workspace Easement to be used for the construction and installation of an ISO Butane Interconnect pipeline across a portion of land owned by the Port, being .14 acres in size and the second easement being a ten foot (10') wide Easement across a portion of land owned by Port, 17.82 rods in length for the installation of one (1) pipeline, being a ISO Butane Interconnect pipeline, such portions of land being more fully described by plat and by metes and bounds on Exhibit "A" which is attached hereto and incorporated herein for any and all purposes; and

WHEREAS, Port intends to grant a Pipeline Easement to NST over said land for the purpose of installing, maintaining, operating, inspecting, repairing, replacing, and/or removing an ISO Butane Interconnect pipeline on the Port's property described on Exhibit "A", for the transportation of crude oil, gas, petroleum products, or any other liquids, gases, or substances which can be transported through said pipeline; and

WHEREAS, the Port intends to grant Temporary Workspace easement to allow for the installation of NST's pipeline, said Temporary Workspace Easement contains .14 acres and is further described on the plat attached as Exhibit "A"; and

WHEREAS, the Port has determined that the granting of a Temporary Workspace Easement and a Pipeline Easement to NST is authorized by law and constitutes a valid public use; and

WHEREAS, the parties desire to set forth the terms and conditions under which the Easement can be acquired by NST from the Port;

NOW THEREFORE, the Parties hereto, in consideration of the premises and covenants herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, each intending to be legally bound, agree as follows:

### ARTICLE I

#### Representations, Covenants and Warranties



1. The Port is a political subdivision of the State of Texas, governed by the Constitution and laws of the State of Texas.

2. The officers of the Port executing this Easement have been duly authorized to execute and deliver this Easement by valid formal action of the Port.

3. NST is a domestic business corporation in good standing under the laws of the State of Texas and is fully qualified to do business in the State of Texas; has full and complete power to enter into this Easement, to enter into and carry out the transactions contemplated hereby and to carry out its obligations under this Easement; and has duly authorized the execution and delivery of this Easement.

4. NST shall at all times during the term hereof maintain and preserve full power and authority to perform and shall perform its obligations hereunder in the manner and at the times set forth herein.

5. NST will not willfully or knowingly use or maintain the property subject to this Easement, or any part thereof, improperly, carelessly, in violation of any applicable federal, state or local law or in a manner contrary to that contemplated by this Easement.

6. NST will comply with all laws, regulations, rules and orders of any federal, state or local authority or agency concerning the maintenance of the property subject to this Easement and the pipeline within the Easement.

7. This Easement has been duly authorized, executed and delivered by NST, and constitutes the valid, legal and binding Easement of NST, enforceable in accordance with its terms.

## ARTICLE II Easement

### 1. Easement:

(a) Subject to compliance by NST with the terms of this Easement, the Port hereby grants to NST this Easement under the terms and conditions set forth in this Easement on the property more fully described on Exhibit "A".

(b) This Easement is necessary to accommodate one pipeline, said pipeline to be buried with a minimum of 6 foot of cover; similar permission may be given to others for installation, maintenance and use of a pipeline in close proximity to the one provided for herein. NST shall not have and there is not given an exclusive right of use and/or occupancy of any portion of Port's property except that occupied by NST's pipeline being located in this Easement.

2. **Purpose of Easement.** This Easement, with its rights and privileges shall be used solely for the purpose of installing, maintaining operating, inspecting, repairing, replacing and/or removing the pipeline within the Easement area described in Exhibit "A". The Temporary Workspace Easement shall be used solely for the purposes of installation of NST's pipeline.

3. **Port's Disclaimers.** THE PORT MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OR THE FITNESS FOR ANY PARTICULAR PURPOSE OF THE EASEMENT, INCLUDING THE EASEMENT'S SUITABILITY FOR NST'S PIPELINE. THE PORT SHALL NOT BE RESPONSIBLE FOR LATENT DEFECTS, GRADUAL DETERIORATION OR LOSS OF SERVICE OR USE OF THE EASEMENT OR ANY PORTION THEREOF. THE PORT SHALL NOT BE LIABLE TO NST OR TO ANYONE ELSE FOR ANY LIABILITY, INJURY, CLAIM, LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY THE INADEQUACY OF THE EASEMENT OR ANY PORTION THEREOF, ANY INTERRUPTION OF USE OR LOSS OF USE OF THE EASEMENT, NST'S PIPELINE OR ANY PORTION THEREOF OR ANY LOSS OF BUSINESS OR OTHER CONSEQUENCE OR DAMAGE, WHETHER OR NOT RESULTING DIRECTLY OR INDIRECTLY FROM ANY OF THE FOREGOING. THE PORT SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES WITH RESPECT TO THE EASEMENT.

4. **Covenant of Quiet Enjoyment.** Port covenants that NST, on paying all payments required under this Easement, and on observing and performing all the other terms and conditions in this Easement to be performed or observed by NST, shall, during the term of this Easement, peaceably and quietly have, hold and enjoy the Easement, without disturbance from any person whatsoever, subject to the terms, covenants, conditions and provisions and agreements of and in this Easement.

5. **Rights of Port.** Nothing herein contained shall prevent Port from granting to other persons, firms or corporations' licensees and/or easements to cross this Easement so long as such other licensees and/or easements do not unreasonably interfere with the rights granted to NST or its usage thereof. Port shall notify NST at least thirty (30) days in advance of construction of any non-interruptive license and/or easement granted by Port along or crossing this Easement. Notwithstanding the above, Port agrees to ensure any other licensees and/or easements crossing this Easement shall comply with all safety and environmental laws and regulations.

### ARTICLE III Term of Easement

1. **Term.** This Easement shall be effective on November 4, 2019 and shall remain in effect until midnight on November 3, 2029 (hereinafter, the "Term"). The Temporary Workspace Easement shall expire when installation of the pipeline is completed.

2. **Termination of Easement Term.** This Easement shall terminate upon the occurrence of the first of the following events:

- a. the end of the term;
- b. the occurrence and continuation of an event of default hereunder and the Port's election to terminate this Easement pursuant to Article XI hereof;
- c. at the request of NST with 90 days written notice to Port.

#### **ARTICLE IV**

##### **Easement Payments and Other Required Payments**

1. **Rent.** The rental rate for the Easement shall be \$20,000.00 for the ten year term, due upon the execution of this Easement. An administrative fee of \$2,500.00 shall also be due and payable at the time of execution of this Easement.

2. **Other Charges.** NST shall comply with and shall pay all local, state and federal taxes (including without limitation, income, franchise, gross receipts, sales, use, excise and real and personal property taxes), governmental charges of any kind whatsoever, payments in lieu of taxes, assessments, special assessments, licenses, registration fees, freight, and transportation charges and any other charges imposed, assessed, levied or liabilities incurred with respect to the ownership, the possession or the use of the Easement (including any liability to the surface estate relating to such Easement), or NST's pipeline, or any other payments by NST and any penalties, fines or interest imposed on any of the foregoing (collectively, the "Charges") during the Easement term.

3. **NST to Control Charges.** The Port shall, to the maximum extent permitted by law, permit NST to pay directly to the relevant taxing or other authorities or third parties all charges due under this Article IV, if NST so requests.

a. NST may, at NST's expense and in NST's or the Port's name, in good faith contest any charges (and the Port shall cooperate fully in any such contest) and, in the event of any such contest, may permit such charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Port shall notify NST that, in the reasonable opinion of the Port, by nonpayment of any such charges the interest of the Port in the Easement will be materially endangered or any part thereof will be subject to loss or forfeiture, in which event NST shall promptly pay any such charges.

b. NST agrees to conduct any such contest or appeal in a reasonable manner and further agrees that it will not enter into any settlement or compromise that would obligate the Port to make any payment or to take or refrain from taking any action, other than ministerial acts.

c. All rebates, refunds or other return of charges shall be paid directly to NST, or if received by the Port, shall be promptly paid over to NST.

## ARTICLE V

### Operation, Use and Maintenance of Improvements

1. **Maintenance and Repair**. NST is solely obligated with respect to the costs of maintaining, operating and repairing the pipeline.

2. **Emergencies**. If any emergency occurs in the maintenance and use of the Easement or NST's pipeline, NST shall immediately give reasonable notice to the Port Director of the Port, any federal, state or local authorities and their regulatory agents, and comply with all directives from any relevant authorities to bring a safe and proper conclusion to the emergency.

3. **Compliance with Laws**. NST shall comply with all rules or orders which Port deems necessary for the protection and conservation of its land and water. NST shall also use all reasonable care and all proper safeguards to comply with all applicable laws and regulations to prevent pollution. In the event of pollution caused by NST, NST shall promptly comply with all applicable laws and regulations, whether federal, state or local, regarding the cleanup of such pollution or with applicable cleanup standards required to minimize any unreasonable risk to human health and the environment, whichever cleanup standard is higher. Further, NST shall be responsible for all damages and costs to persons and to public and private property in which it causes. NST, in any of its operations of the Easement or pipeline, shall not violate the provisions of any environmental legislation or the environmental rules, regulations or standards of any such regulatory body, whether federal, state or local.

4. **Permits**. NST shall obtain and maintain in effect at all times during the Term all permits, licenses and consents required or necessary for the maintenance, use and operation of its pipeline.

## ARTICLE VI

### Port's Right to Monitor

1. **Reporting Requirements**. Requirements of this paragraph apply to activities pertaining to this Easement only. NST shall promptly supply Port with copies of all notices, reports, correspondence, and submissions made by NST, as they pertain to this



Easement only, to the Environmental Protection Agency, the Texas Commission on Environmental Quality, the United States Occupational Safety and Health Administration, or any other local, state, or federal authority that requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to all applicable regulations. NST shall also supply Port with written confirmation of any notices or reports regarding releases of hazardous wastes or substances that NST makes orally or by telephone to any such governmental agency. NST shall promptly notify Port in advance of any scheduled meeting between NST and any of the agencies specified above.

2. **Environmental Liens.** NST shall promptly notify Port as to any liens threatened or attached against the premises pursuant to any environmental law. In the event that an environmental lien is filed against the premises, NST shall, within 30 days from the date on which the lien is placed against the property, or before the date on which any governmental authority commences proceedings to sell the premises pursuant to a lien, either: (a) pay the claim and remove the lien from the premises; or (b) furnish either (i) a bond satisfactory to the Port in the amount of the claim on which the lien is based or (ii) other security satisfactory to the Port in an amount sufficient to discharge the claim on which the lien is based.

3. **Environmental Clause:**

a. **Environmental Restrictions.** NST shall not cause or permit any Hazardous Materials to be generated, treated, stored, manufactured, disposed or released on or about the Easement or transferred or transported to the Easement, in contravention of any legal requirements. Any use of Hazardous Materials by any person on the Easement shall be in strict conformance with all legal requirements and shall not cause the Easement to be subject to remedial obligations to protect health or the environment. The terms "Hazardous Materials" shall mean any flammables, explosives, radioactive materials, hazardous waste, toxic substances or related materials, including substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "solid wastes" in the comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.A. Sec. 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Sec. 1801, et seq.; the Resources Conservation and Recovery Act, 42 U.S.C.A. Sec. 6901, et seq.; the Toxic Substance Control Act, as amended, 15 U.S.C.A. Sec. 2601 et seq.; Port's Tariffs; the Texas Solid Waste Disposal Act, Tex.Rev.Civ.Stat.Ann.Art. 4477-7; or any other legal requirement.

b. **Notification of Potential Liability Triggering Event.** Within twenty-four (24) hours of receipt, or as soon thereafter as reasonably possible within normal business hours, NST shall notify and provide Port with all copies of notices, demands, lawsuits, or other correspondence from any federal, state or local governmental agency or private party, pertaining to the Easement, including, but not limited to, the following:

- (1) The violation of any federal, state, or local statute or regulation;
- (2) The loss of any operating permit;
- (3) Any enforcement action undertaken by any federal, state or local governmental agency, or any private party;
- (4) The institution of any lawsuit by any governmental entity or any private party; or
- (5) The service of a potentially responsible party demand letter from any private or governmental party.

c. **Consequences of NST's Violation of Environmental Legal Requirements.** In the event NST's violation of environmental legal requirements expose Port to fines or penalties as the owner of the Easement, NST shall provide the defense of the Port with respect to such fines and penalties under the appropriate regulatory, administrative, or judicial procedures, and will pay any such fines or penalties timely and promptly after completion of any such defensive or mitigative proceedings, including appeals, if any. In the event of NST's unreasonably repeated conviction of the same violation of environmental legal requirements within any twelve-month period, Port may re-open negotiations regarding the Term under this Easement.

d. **Indemnity.** NST is responsible for any environmental contamination resulting from location, maintenance, operation, repair or removal of the pipeline placed on the premises by NST under this Easement and will cure such environmental contamination that may occur in compliance with the then existing laws, rules and regulations. NST AGREES TO BE LIABLE FOR AND TO INDEMNIFY, DEFEND AND TO HOLD HARMLESS PORT FROM ANY ASSESSMENTS, LIABILITY, COST OR EXPENSE, INCLUDING COUNSEL, ENGINEERING, AND OTHER PROFESSIONAL OR EXPERT FEES THAT MAY ARISE FOR CLEAN-UP OR REMEDIATION OF ANY CONTAMINATION ON THE PREMISES OR ADJACENT AREAS UNDER THEN CURRENT LOCAL, STATE, OR FEDERAL LAWS, RULES, REGULATIONS OR ORDERS, INCLUDING, WITHOUT LIMITATION, STATE OR FEDERAL SUPERFUND LAWS, ARISING IN CONNECTION WITH LOCATION, MAINTENANCE, OPERATION, REPAIR OR REMOVAL OF NST'S PIPELINE. THE RIGHTS AND OBLIGATIONS SET FORTH UNDER THIS ARTICLE SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS EASEMENT.

## ARTICLE VII Insurance

1. **Insurance.** NST shall procure and maintain continuously in effect with

respect to the Easement, commercial general liability insurance for injuries to or death of any persons or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Easement or any part thereof, providing coverage with a combined single limit of \$10,000,000 for injuries to or death of persons or damage to property per occurrence or in such other amounts and with such other coverages as shall at the time be in accordance with general industry practice for similar facilities and operations of the type and scope of the Easement. Coverage shall include sudden and accidental pollution liability insurance with a \$10,000,000 minimum coverage. In the event of a dispute between the Port and NST as to general industry practice for insurance coverages, the matter may be referred by either Party to an independent insurance broker with expertise in industrial insurance for such broker's independent determination of the prudent insurance requirements for such facilities and such determination shall be final and binding on the parties hereto for a period of five years. All such policies of insurance shall designate the Port as an additional insured. NST shall furnish to Port a copy of the policy of insurance designating the Port as an additional insured within thirty (30) days of the date of execution hereof. In the event NST changes policies, a copy of the new policy designating the Port as an additional insured shall be furnished to the Port within thirty (30) days.

2. **Self-Insurance.** NST may at any time during the term of the Easement substitute self-insurance for any insurance coverage required by the terms of this Agreement, to be provided by NST or any affiliate of NST provided, however, that NST or the relevant affiliate can provide to the Port filings with the Securities and Exchange Commission or other audited financial statements demonstrating that NST or the relevant affiliate had as of the end of its most recent fiscal year a consolidated net worth of at least Five Hundred Million Dollars (\$500,000,000).

## ARTICLE VIII INDEMNITY

### 1. Definitions:

- a. **Port Parties:** The Port, its successors and assigns, and all of its respective officers, directors, commissioners, and their successors in office, employees, attorneys, designees, representatives, tenants, contractors, subcontractors, invitees, licensees and agents.
- b. **NST Parties:** NST, its officers, directors, employees, subcontractors, suppliers, invitees, licensees, and agents.
- c. **Claims:** losses, expenses, liens, claims, demands, damages and causes of action of every kind and character whatsoever for damage to the property of Port Parties, personal injury to any person including Port Parties, other liability, damages, fines or penalties (except where reimbursement prohibited

by law), including costs, expenses, penalties, and interest, attorney fees, and settlement.

NST HEREBY AGREES TO DEFEND, INDEMNIFY, AND SAVES HARMLESS THE PORT PARTIES FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE PERFORMANCE OR FAILURE TO PERFORM THE COVENANTS OF THIS AGREEMENT. THIS INDEMNITY SHALL INCLUDE CLAIMS ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART BY NST PARTIES, AND NST EXPRESSLY AGREES TO ASSUME THE RISK OF ALL CLAIMS AND NST AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD PORT PARTIES HARMLESS FROM ALL CLAIMS, INCLUDING BUT NOT LIMITED TO CLAIMS IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY NST PARTIES' WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT OR BREACH OF WARRANTY, EXPRESSED OR IMPLIED.

THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL PORT PARTY FOR A PARTICULAR CLAIM, INsofar AS THAT PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT EXCLUSIVELY FROM THE GROSS NEGLIGENCE OR WILLFUL CONDUCT OF THAT PORT PARTY SEEKING TO ENFORCE THE INDEMNIFICATION.

THE PORT AND NST ACKNOWLEDGE THAT THIS STATEMENT AND THE FOREGOING INDEMNIFICATION UNDER THIS ARTICLE VIII COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS AND HAS BEEN REVIEWED AND APPROVED BY EACH PARTIES OWN RESPECTIVE INDEPENDENT LEGAL COUNSEL. THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AS TO CLAIMS ACCRUING PRIOR TO THE TERMINATION OF THIS AGREEMENT.

2. The Port's Exculpation. The Port shall have no responsibility or liability to NST, or to NST's officers, directors, shareholders, partners, employees, agents, contractors or invitees, for bodily injury, death, property damage, business interruption, loss of profits, loss of trade secrets or other direct or consequential damages occasioned by (a) Force Majeure, (b) vandalism, theft, burglary and other criminal acts (other than those committed by the Port and its employees), or (c) the condition, repair, replacement, maintenance, damage or destruction of the Easement. "Force Majeure" shall mean:

- (a) acts of God, landslides, lightning, earthquakes, hurricanes, tornadoes, blizzards and other adverse and inclement weather, fires, explosions, floods,

acts of a public enemy, wars, blockades, insurrections, riots or civil disturbances;

(b) orders or judgments of any federal, state or local court, administrative agency or governmental body, if not the result of willful or negligent action of the party relying thereon; and

(c) any other similar cause or event, provided that the foregoing is beyond the reasonable control of the party claiming Force Majeure.

#### **ARTICLE IX Removal of NST's Pipeline**

1. Upon the termination of this Easement, however the same may be brought about; NST shall cause the removal and the disposition of its pipeline. NST shall give written notice to the Port of its decision to permanently abandon its pipeline. NST shall be responsible to comply with all the laws, regulations, procedures, actions and physical requirements of any federal, state or local authority or agency and NST shall solely be responsible for all costs of such removal and disposition.

2. The Port reserves the right to have NST's pipeline removed at NST's cost in the event NST fails to remove the same within six (6) months after the termination of this Easement. NST shall indemnify and hold harmless the Port from and against all reasonable costs of the removal of all improvements, including the pipeline.

3. To the extent permitted by law and notwithstanding any other terms hereof, the Port and NST may agree in writing that the pipeline may be abandoned in place and not removed by NST after the termination of this Easement. It is understood and agreed by both parties to this contract that Port is the approving authority as to the removal-nonremoval of property from the Easement, and the decision of the authority shall govern.

#### **ARTICLE X Assignment, Sublease, Mortgage and Sale; Encumbrances**

1. **Title to Easement.** Legal title to the property subject to the Easement shall be in the Port.

2. **Assignment by Port.** The Port shall not assign its obligations under this Easement, and no purported assignment thereof shall be effective; provided, however, that such prohibition shall not apply to any legislatively created successor of the Port or to any merger of the Port with any other political subdivision of the State of Texas.

3. **Assignment, Sublease, Mortgage or Sale by NST:**

a. Except as provided by Article X, Paragraph 3b hereof, this Easement may not be assigned, subleased, mortgaged or sold by NST without the prior written consent of the Port.

b. NST may freely assign this Easement, or sublease the Easement, to: (i) any successor in interest to NST by statutory merger, (ii) any corporation, partnership, limited liability company or other legal entity, which is a direct or indirect subsidiary of, or which is otherwise ultimately controlled by NST; provided, however, any such assignment or sublease of this Easement shall not relieve NST from liability under this Easement. Furthermore, if such an assignment under this Section does occur, NST has the duty to notify Port of the name and address of the successor in interest.

4. **NST TAKES "AS IS"**. NST HAS INSPECTED THE CONDITION OF THE SUBJECT PROPERTY AND ACCEPTS SAME "AS IS" AND IN ITS EXISTING CONDITION, NST IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF PORT REGARDING ANY ASPECT OF THE PREMISES BUT IS RELYING ON NST'S OWN INSPECTION OF THE PREMISES. PORT DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AND ANY OTHER WARRANTY WHATSOEVER NOT EXPRESSLY SET FORTH IN THIS EASEMENT. PORT AND NST HEREBY AGREE AND ACKNOWLEDGE THAT THE USE OF THE TERM "GRANT" IN NO WAY IMPLIES THAT THIS EASEMENT OR THE SUBJECT PROPERTY ARE FREE OF LIENS, ENCUMBRANCES AND/OR PRIOR RIGHTS. NST IS HEREBY PUT ON NOTICE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCES MAY BE OF RECORD AND NST IS ADVISED TO EXAMINE ALL RECORDS OF PORT AND THE COUNTY IN WHICH THE SUBJECT PROPERTY IS LOCATED. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS EASEMENT.

5. **No Further Encumbrances**. NST shall not, directly or indirectly, create, incur, assume or cause to exist any lien, charge, encumbrance or claim on or with respect to the Easement. In the event an encumbrance occurs, NST shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such lien, charge, encumbrance or claim if the same shall arise at any time. NST shall reimburse the Port for any expense incurred by it in order to discharge or remove any such lien, charge, encumbrance or claim. In the event a lien is filed, and NST is contesting such lien, NST shall within thirty (30) days file a bond in accordance with the procedures set forth in the Texas Property Code. The allowance of a lien, charge, encumbrance or claim, unless properly bonded, on the Easement Property by NST shall be considered an act of default as defined herein.

**ARTICLE XI**  
**Events of Default; Remedies**

1. **Events of Default.** An occurrence of any one or more of the following events shall constitute an event of default hereunder (an "Event of Default"):

a. NST fails to observe or perform any covenant, condition, agreement or obligation on its part to be observed or performed hereunder (including the payment of the Easement Payments), for a period of thirty (30) days after receipt of written notice from the Port specifying such failure; provided, however, that if such observance or performance requires work to be done, actions to be taken or conditions to be remedied, which by their nature cannot reasonably be accomplished within such thirty (30) day period, if NST shall commence such observance or performance within such period and shall be proceeding diligently with respect thereto then the fact that the same shall not have been corrected during such period shall not constitute an Event of Default; or

b. The discovery by the Port that any material statement, representation or warranty made by NST in this Easement is false, misleading or erroneous in any material respect.

c. The involuntary transfer of NST's interest in this Easement by operation of law.

d. The institution by or against NST of any proceedings in bankruptcy or insolvency, or the reorganization of NST under any law, or the appointment of a receiver or trustee for all or substantially all of NST's property or for NST's interest in this Easement, or any assignment by NST for the benefit of creditors.

2. **Remedies on Default.** Upon the occurrence of an Event of Default and following written notice of such default to NST, the Port may, without further demand or notice, with or without terminating this Easement, reenter and take possession of the property subject to this Easement and exclude NST therefrom; provided, however, that if this Easement has not been terminated, the Port shall return possession of the property subject to this Easement to NST when the Event of Default is cured.

3. **Return of Property Subject to This Easement.** In addition to the provisions of Article IX, upon the termination of this Easement pursuant to this Article XI, NST shall deliver possession of the property subject to this Easement to the Port.

4. **Delay; Notice.** No delay or omission in exercising any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed exclusive of such exercise. To entitle any party to exercise any remedy reserved to it in this Easement, it shall not be necessary to give any notice other than as may be specifically required in this Easement.

**ARTICLE XII**  
**Miscellaneous**

1. **Notices.** All notices, certificates and other documents hereunder to be given to or to be served upon any party entitled to notices hereunder shall be in writing and shall be delivered personally or by certified or registered mail, and if so mailed, shall be deemed to have been given and received within five (5) business days after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States Mail, and if given otherwise shall be deemed to have been given when delivered to the party to whom it is addressed. Such notice shall be given to the parties at their following respective addresses or at such other address as either party may hereafter designate in accordance with the provisions of this Article XII, Paragraph 1 to the other party in writing:

If to the Port:

Calhoun Port Authority  
2313 FM 1593 South  
P. O. Box 397  
Point Comfort, Texas 77978  
Attention: Port Director

If to NST:

NST Point Comfort Holdings, LLC  
10077 Grogans Mill Road, Suite 530  
The Woodlands, Texas 77386 77380  
Attention: Chief Operating Officer



2. **Severability.** In the event any provision of this Easement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the other provisions hereof.

3. **Amendments, Changes and Modifications.** This Easement may be amended from time to time by the Port and NST by written agreement between the parties.



4. **Public Disclosure.** Port is a governmental authority subject to the requirements of the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Texas Open Records Act, Chapter 552, Texas Government Code, as amended, and as such Port is required to disclose to the public this Easement and certain other information and documents relating to the consummation of the transactions contemplated hereby upon written request. Additionally, it may be necessary to file all or portions of this Easement with the Federal Maritime Commission and thereby render all or a portion of this Easement to a public document. In this regard, NST agrees that the rightful filing or disclosure of this Easement or any other information or materials related to the consummation of the transactions contemplated hereby to the public by Port to the extent required by the Shipping Act, the Texas Open Meetings Act, Texas Open Records Act, or any other legal requirement will not expose Port (or any party acting by, through or under Port) to any claim, liability or action by NST. The Port shall, to the extent legally possible, treat any trade secrets or confidential information disclosed by NST as confidential commercial information.

5. **Further Assurances and Corrective and Supplemental Instruments.** The Port and NST shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting or supplementing any inadequate or incorrect description of the Right of Way hereby granted or intended to be or for carrying out the expressed intention of the Easement.

6. **Applicable Law and Venue.** This Easement shall be governed by, construed and shall be enforceable in accordance with the laws of the State of Texas without giving effect to the principles of conflict of laws. Venue for any action brought hereunder shall lie in the State District Courts of Calhoun County, Texas.

7. **Heading.** The captions or headings in this Easement are for convenience of reference only and in no way define, limit or describe the scope or intent of any provisions or Articles hereof.

8. **Multiple Counterparts.** This Easement may be executed in multiple counterparts, each of which shall constitute an original instrument and all of which taken together shall constitute one and the same instrument.

9. **Entire Easement.** This Easement, together with the Exhibit attached hereto, contain the final and entire Easement regarding the subject matter hereof between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Easement shall be deemed to exist or to bind the parties hereto.

10. No Personal Liability or Accountability. No covenant, condition or agreement contained in this Easement shall be deemed to be the covenant, condition or agreement of any past, present or future officer, commissioner, agent or employee of the Port or NST, in his or her individual capacity, and neither the officers, agents or employees of the Port, NST nor any official executing this Easement shall be liable personally on this Easement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Easement.

11. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Port shall be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Easement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof or a course of dealing, but any such right or power may be exercised from time to time and as often as may be deemed appropriate by the party exercising it.

12. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Easement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder and shall not be construed to be an implied term hereof or a course of dealing between the parties.


13. Dispute Expenses and Attorneys' Fees. If any controversy, claim, or dispute arises relating to this Easement or its breach, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees, and costs.

IN WITNESS WHEREOF, the Port has caused this Easement to be executed by its duly authorized officers, and NST has caused this Easement to be executed in its corporate name by its duly authorized executive, as of the date written below.

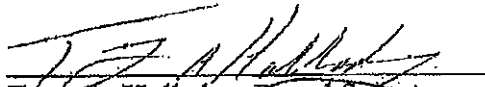
Signed this 4<sup>th</sup> day of November 2019 and effective this 4<sup>th</sup> day of November 2019.

[Signatures follow on next page.]

**CALHOUN PORT AUTHORITY**

  
\_\_\_\_\_  
J. C. Melcher, Board Chairman  
Calhoun Port Authority

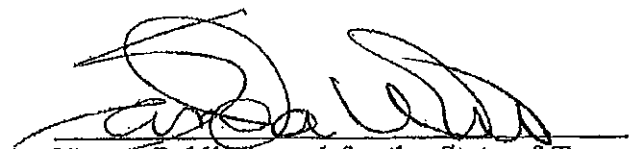
**ATTEST:**

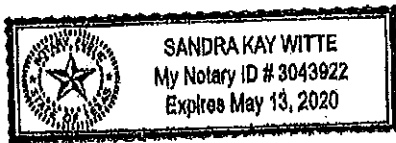
  
\_\_\_\_\_  
Tony A. Holladay, Board Secretary  
Calhoun Port Authority

STATE OF TEXAS           §  
  §  
COUNTY OF CALHOUN   §

Before me, the undersigned Notary Public, on this day personally appeared J. C. Melcher, Jr., who is personally known to me to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and considerations expressed and doing so as Board Chair of Calhoun Port Authority,

Given under my hand and seal of office on the 4<sup>th</sup> day of November 2019.

  
\_\_\_\_\_  
Notary Public in and for the State of Texas



NST POINT COMFORT HOLDINGS, LLC

By: *[Signature]*

Printed Name: Mac Hummel

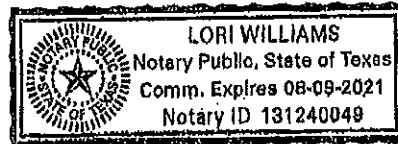
Title: CEO

STATE OF TEXAS           §  
  §  
COUNTY OF CALHOUN   §

Before me, the undersigned Notary Public, on this day personally appeared MAC HUMMEL, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and considerations expressed and doing so as the CEO of NST Point Comfort Holdings, LLC.

Given under my hand and seal of office on the 18<sup>th</sup> day of November 2019.

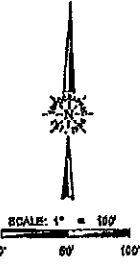
*[Signature]*  
Notary Public in and for the State of Texas



**PRELIMINARY**  
**T. COX SURVEY, A-10**  
**CALHOUN COUNTY, TEXAS**  
**EASEMENT SKETCH**

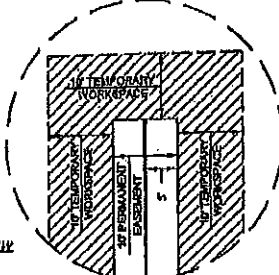


TOTAL LENGTH: 284.09 FEET OR 17.82 RODS  
 PERMANENT EASEMENT: 0.07 ACRE  
 TEMPORARY WORKSPACE: 0.14 ACRE

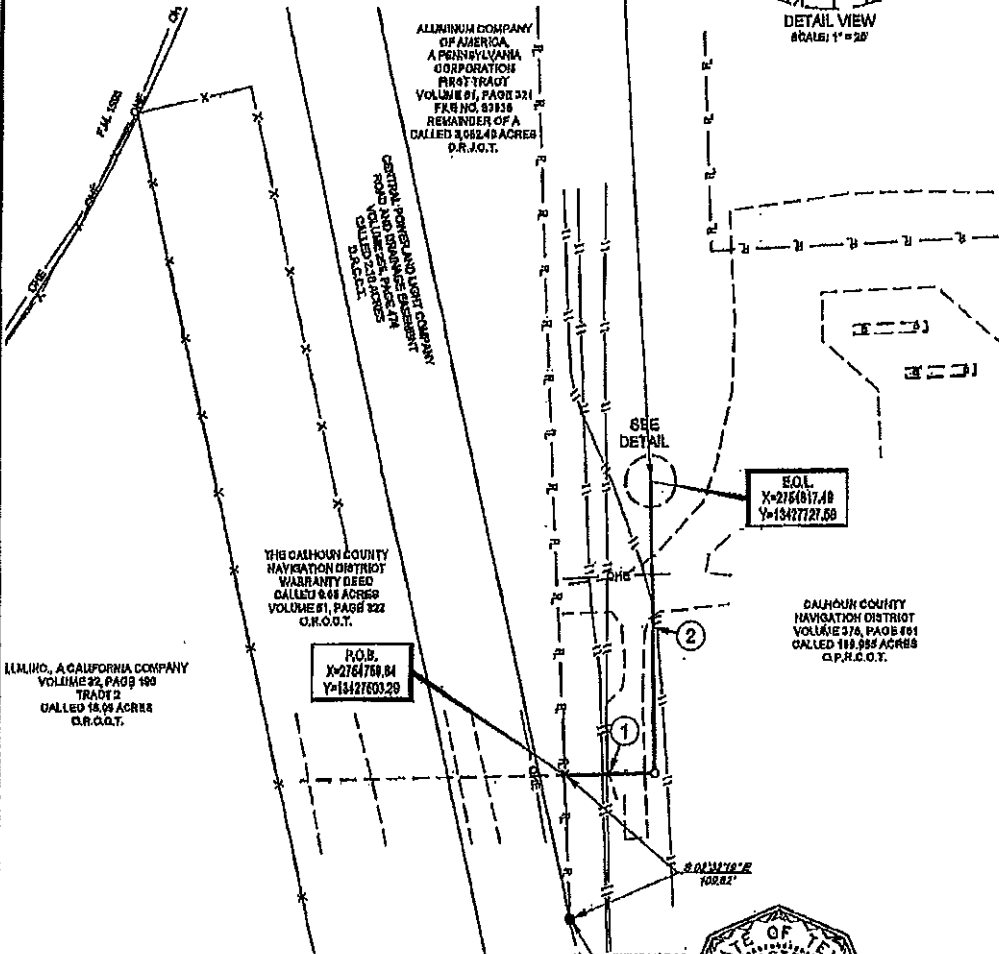


1/2" IRON ROD FOUND

CENTRAL POWER AND LIGHT COMPANY  
 VOLUME 210, PAGE 418  
 FILE NO. 108108  
 CALLED 204 ACRES  
 O.R.D.O.T.



DETAIL VIEW  
 SCALE: 1" = 20'



ALUMINIA COMPANY  
 OF AMERICA  
 A PENNSYLVANIA  
 CORPORATION  
 FIRST TRACT  
 VOLUME 81, PAGE 321  
 FILE NO. 89318  
 REMAINDER OF A  
 CALLED 3,052.48 ACRES  
 O.R.D.O.T.

CENTRAL POWER AND LIGHT COMPANY  
 VOLUME 210, PAGE 418  
 FILE NO. 108108  
 CALLED 204 ACRES  
 O.R.D.O.T.

THE CALHOUN COUNTY  
 NAVIGATION DISTRICT  
 WARRANTY DEED  
 CALLED 0.61 ACRES  
 VOLUME 81, PAGE 322  
 O.R.D.O.T.

ALUMINIA, A CALIFORNIA COMPANY  
 VOLUME 82, PAGE 180  
 TRACT 2  
 CALLED 18.09 ACRES  
 O.R.D.O.T.

P.O.B.  
 X=2764759.84  
 Y=13427603.29

E.O.L.  
 X=2764817.68  
 Y=13427727.58

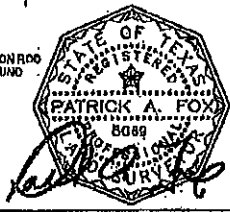
CALHOUN COUNTY  
 NAVIGATION DISTRICT  
 VOLUME 37A, PAGE 681  
 CALLED 119.988 ACRES  
 O.P.R.C.O.T.

**LEGEND**

**LINE TABLE**

LINE	BEARING	DISTANCE
1	N 82° 24' 00" E	71.12'
2	N 01° 05' 17" W	222.87'

- R — TRACT BORDER
- S — SURVEYED BARELINE
- C — CONTINUED BARELINE
- E — EDGES OF EASEMENT
- T — TEMPORARY WORKSPACE
- R — ROAD WAY
- X — FENCE LINE
- P — EXISTING PIPELINE
- O — OVERHEAD ELECTRIC
- ● — POINT OF INTERSECTION
- ○ — CALCULATED CORNER
- ● — IRON ROD FOUND



Patrick A. Fox, R.P.L.S. No. 8089  
 SURVEYED ON THE GROUND: August 28, 2018  
 Field note description of every data accompanies this plat.

**TOPOGRAPHIC**  
 LOYALTY INNOVATION LEGACY  
 1400 BRENDAH PARKWAY, SU. 114 • FT. WORTH, TEXAS 76140  
 TELEPHONE: (817) 742-6644 • FAX: (817) 742-6644  
 TEXAS PLAT REGISTRATION NO. 10412374  
 WWW.TOPOGRAFIC.COM

ISO BUTANE  
 INTERCONNECT  
 DATE: 11/01/2019  
 FILE: ISO BUTANE INTERCONNECT CALHOUN  
 DRAWN BY: CAR  
 SHEET: 1 OF 2

REVISION:	INT	DATE

- NOTES:**
1. ORIGINAL DOCUMENT REF: 88" X 11"
  2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GIVEN BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, I.L.E. SURVEY SYSTEM
  3. CERTIFICATION IS MADE ONLY TO THE LOCATION OF THE EASEMENT, IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY, MADE ON THE GROUND, UNDER MY SUPERVISION, AND USING DOCUMENTATION PROVIDED BY NORTHSTAR MIDSTREAM, LLC ONLY. USE OF THIS PLAT IS LIMITED TO THE DATE OF THIS SURVEY. ANY CHANGES TO THIS EASEMENT, HAVE BEEN LOCATED AS KNOWN HEREON IF I HAVE KNOWLEDGE. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES WHOSE INTERESTS ARE SHOWN ON THIS PLAT AND IS NON-TRANSFERABLE, AND MADE FOR THIS TRACT ONLY.
  4. ALL OTHER INFORMATION BEYOND THIS DOCUMENTATION, FURNISHED ORALLY.
  5. E.O.L.P.O.B. = END OF LINE/POINT OF BEGINNING
  6. E.O.L./P.O.B. = END OF LINE/POINT OF BEGINNING
  7. O.P.R.C.O.T. = OFFICIAL PUBLIC RECORDS CALHOUN COUNTY, TEXAS
  8. O.P.R.C.O.T. = OFFICIAL PUBLIC RECORDS CULBERTSON COUNTY, TEXAS
  9. D.R.D.O.T. = DEED RECORDS JACKSON COUNTY, TEXAS

**EXHIBIT**  
**"A"**

NORTHSTAR PORT ARTHUR, LLC

PRELIMINARY  
CALHOUN COUNTY, TEXAS  
10 FOOT WIDE EASEMENT DESCRIPTION

November 1, 2019  
Sheet 2 of 2

A 10 foot wide permanent easement, 5 feet each side of a surveyed baseline as shown on sheet 1 of 2 of this Preliminary, being situated in the T. Cox Survey, Abstract No. 10, Calhoun County, Texas, out of a called 169,965 acre tract of land, described in deed to Calhoun County Navigation District, recorded in Volume 376, Page 661, Official Public Records, Calhoun County, Texas, (O.P.R.C.C.T.), said 10 foot wide permanent easement being more particularly described along a surveyed baseline by centerline description as follows:

BEGINNING (P.O.B., X=2754750.84, Y=13427503.29) on the West line of said 169,965 acre tract, from which a 5/8-inch Iron rod found for an angle corner on the West line of said 169,965 acre tract, bears: South 02°32'19" East, a distance of 109.82 feet;

THENCE North 88°54'43" East, a distance of 71.10 feet;

THENCE North 01°05'17" West, a distance of 222.98 feet to the END OF LINE (E.O.L., X=2754817.49, Y=13427727.56), within said 169,965 acre tract, and END OF THIS DESCRIPTION, from which a 1/2-inch Iron rod found on the West line of a called 200 acre tract of land described in deed to Central Power and Light Company, recorded in Volume 256, Page 449, File No. 109105, Deed Records, Calhoun County, Texas (D.R.C.C.T.), bears: North 08°33'54" West, a distance of 1,391.25 feet.

The above surveyed baseline traverses the said 169,965 acre tract for a total distance of 294.08 feet or 17.82 rods.

All bearings, distances, and coordinates contained herein are grid, based upon the Texas Coordinate System of 1983 (commonly, Texas State Plane Coordinate System), South Central Zone, in U.S. Survey Feet.

Plot of even date accompanies this field note description.

Topographic Land Surveyors  
1400 Everman Parkway  
Suite 146  
Fort Worth, TX 76140



Patrick A. Fox, R.P.L.S. No. 5069  
SURVEYED ON THE GROUND: August 28, 2019

LOS 907

**LOADING ARM LEASE BETWEEN CALHOUN PORT AUTHORITY  
AND NST POINT COMFORT HOLDINGS, LLC**

THIS LOADING ARM LEASE (hereinafter referred to as "Lease") is entered as of \_\_\_\_\_, 2015 (the "Effective Date") between Calhoun Port Authority, a body politic and a governmental subdivision of the State of Texas (hereinafter referred to as "Port"), and NST POINT COMFORT HOLDINGS, LLC, a Foreign Limited Liability Company authorized to do business in the State of Texas with its place of business at 333 South Grand Avenue, 28<sup>th</sup> Floor, Los Angeles, CA. 90071 (hereinafter referred to as "NST").

**RECITALS**

**WHEREAS**, NST desires to lease a portion of the Liquid Pier Dock owned by Port, such land being depicted in Exhibit "A", which is attached hereto and incorporated herein for any and all purposes; and

**WHEREAS**, the Port has determined that this lease to NST is authorized by law and constitutes a valid public use; and

**WHEREAS**, the parties desire to set forth the terms and conditions under which the Lease can be acquired by NST from the Port;

**NOW, THEREFORE**, the Parties hereto, in consideration of the premises and covenants herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, each intending to be legally bound, agree as follows:

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:**

**AGREEMENTS**

In consideration of the mutual agreements herein set forth, Port and NST agree as follows:

**Article 1. Definitions.** As used in this Lease, the following terms (in addition to the terms defined elsewhere herein), and whether singular or plural thereof, shall have the following meanings when used herein with initial capital letters:

**"Business Day"** shall mean a day other than Saturday, Sunday or legal holiday recognized in Port's Tariffs.

**"Event of Default"** shall have the meaning set forth in Section 14.01 hereof.



**"Fiscal Year"** shall mean the twelve month period beginning July 1<sup>st</sup> of any given year and ending June 30<sup>th</sup> of the following year.

**"Force Majeure"** shall mean:

- (a) acts of God, landslides, lightning, earthquakes, hurricanes, tornadoes, blizzards and other adverse and inclement weather, fires, explosions, floods, acts of a public enemy, wars, blockades, insurrections, riots or civil disturbances, including but not limited to interruption of navigation, acts of terrorism, or other disruption of normal business conditions;
- (b) labor disputes, strikes, work slowdowns, or work stoppages;
- (c) orders or judgments of any federal, state or local court, administrative agency or governmental body, if not the result of willful or negligent action of the party relying thereon;
- (d) power failure and outages affecting the Leased Premises; and
- (e) any other similar cause or event, provided that the foregoing is beyond the reasonable control of the party claiming Force Majeure.

**"Hazardous Materials"** shall have the meaning ascribed to it in Section 4.04 hereof.

**"Impositions"** shall mean, without duplication, (a) all real estate, personal property, rental, water, sewer, transit, use, occupancy and other taxes, assessments, charges, excises and levies which are imposed upon or with respect to (1) the Leased Premises or any portion thereof, or the sidewalks, streets or alley ways adjacent thereto, or the ownership, use, occupancy or enjoyment thereof or (2) this Lease and the Rent payable hereunder; and (b) all charges for any easement, license, permit or agreement maintained for the benefit of the Leased Premises.

**"Improvements"** shall mean all improvements presently existing or to be constructed on the Leased Premises by NST during the term of this Lease as described in Exhibit "A".

**"Rent"** shall mean the annual Rent otherwise described in Section 5.01.

**"Leased Premises"** shall mean (a) the property leased by NST pursuant to this Lease and further depicted in Exhibit "A" hereto.



"Legal Requirements" shall mean any and all (a) judicial decisions, orders, injunctions, writs, statutes, rulings, rules, regulations, promulgations, directives, permits, certificates or ordinances of any governmental authority in any way applicable to NST and the Leased Premises, including zoning, environmental and utility conservation matters, (b) Port's Tariffs, (c) insurance requirements and (d) other documents, instruments or agreements (written or oral) relating to the Leased Premises or to which the Leased Premises may be bound or encumbered.

"Permitted Use" shall mean the utilization of the Loading Arm and associated equipment for the transportation of product therein by NST.

"Port" shall mean the Calhoun Port Authority, the body politic and governmental subdivision identified in the opening recital of this Lease, and its successors and assigns and subsequent owners of the Leased Premises.

"Port Facilities" shall mean all channels, waterways, docks, slips and other facilities and improvements owned, operated or controlled by Port (other than the NST Facility) which are necessary for access to, or the use and operation of, the NST Facility as contemplated hereunder.

"Port's Tariffs" shall mean the rates, rules, regulations, policies and tariffs issued, adopted, amended and reissued by Port from time to time (including, without limitation, Tariff No. 003).

"Rent" shall mean Rent and any other tariffs or other amounts payable hereunder.

"Term" shall mean a one year period beginning \_\_\_\_\_, 2015 and ending at midnight \_\_\_\_\_, 2016, said term to be automatically renewed year to year unless terminated by written notice of either Party 60 days before the expiration date.

#### Leased Premises.

**Section 2.01. Description of the Leased Premises.** Subject to the provisions of this Lease, Port hereby leases, demises and lets to NST and NST hereby leases from Port, the Leased Premises. Both parties acknowledge that Port shall have the right to use the Leased Premises in any manner that will not interfere with NST'S Permitted Use thereof nor will it curtail NST'S capacity to transport product within the Leased Premises. The Port shall be permitted to make improvements, alterations, repairs or take emergency action in, on or over the leased property or, if found to be necessary in the discretion of the Port, to relocate the Improvements, which cost of relocation shall be negotiated at the time a relocation is required. Any rental due shall be suspended until relocation is completed.

**Article 3. Term.**

This lease shall be effective as of the Effective Date and shall continue throughout the Term.

**Section 3.01** If NST holds over and continues in possession of the Leased Premises after the lease term expires, the holding over may be considered by Port and at the Port's option a month-to-month tenancy binding NST to all terms and conditions as set forth in this Lease.

**Article 4. Use.**

**Section 4.01. Permitted Use.** NST shall use the Leased Premises for the development and operation of any Permitted Uses under this Lease, including, without limitation, the construction, operation and maintenance of two (2) Loading Arms within the Leased Premises, and the transportation of product there through.

**Section 4.02. Continuous Operation.** NST will occupy and continually use the Leased Premises solely for any or all of the Permitted Uses and in strict compliance with all Legal Requirements. This Lease shall terminate in the event NST completely abandons the use of the Leased Premises for a continuous period of 180 days unless excused by Force Majeure.

**Section 4.03. Specifically Prohibited Use.** NST will not (a) use, occupy or permit the use or occupancy of the Leased Premises or use Port's other property for any purpose or in any manner which is or may be, directly or indirectly, (1) inconsistent with the requirements of this Lease, (2) violative of any of the Legal Requirements, (3) dangerous to life, health, the environment or property, or a public or private nuisance or (4) disruptive to the activities of any other tenant or occupant of property adjacent to the Leased Premises, (b) commit or permit to remain any waste to the Leased Premises or (c) commit, or permit to be committed, any action or circumstance in or about the Leased Premises which, directly or indirectly, would or might justify any insurance carrier in canceling the insurance policies maintained by NST on the Leased Premises and Improvements thereon. Port hereby confirms to NST that the use of the Leased Premises for the Permitted Use shall not constitute a prohibited use hereunder, including, without limitation, the requirements of Section 4.04 hereof, so long as the same is conducted in compliance with applicable Legal Requirements.

**Section 4.04. Environmental Restrictions.** NST shall not cause or permit any Hazardous Materials or industrial solid wastes to be generated, treated, stored, manufactured, disposed or released on or about the Leased Premises or transferred or transported to the Leased Premises, in material contravention of applicable legal

requirements. Any use of Hazardous Materials by any person on the Leased Premises shall be in strict conformance with all legal requirements and shall not cause the Leased Premises to be subject to remedial obligations to protect health or the environment. The terms "Hazardous Materials" shall mean any flammables, explosives, radioactive materials, hazardous waste and hazardous constituents, toxic substances or related materials, including substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "solid wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.A. Sec. 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Sec. 5101, et seq.; the Resources Conservation and Recovery Act, 42 U.S.C.A. Sec. 6901, et seq.; the Toxic Substance Control Act, as amended, 15 U.S.C.A. Sec. 2601 et seq.; Grantor's Tariffs; the Solid Waste Disposal Act, Chapter 361 of the Health and Safety Code of Texas; or any other legal requirement.

**Section 4.05. Notification of Potential Liability Triggering Event.** Within two (2) business days following receipt thereof, NST shall notify and provide Port with all copies of written notices, demands, lawsuits, or other correspondence from any federal, state or local governmental agency or private party related to the following as applicable to the Leased Premises:

- (a) The violation of any federal, state, or local statute or regulation;
- (b) The loss of any operating permit;
- (c) Any enforcement action undertaken by any federal, state or local governmental agency, or any private party;
- (d) The institution of any lawsuit by any governmental entity or any private party; or
- (e) The service of a potentially responsible party demand letter from any private or governmental party.

**Section 4.06. Consequences of NST'S Violation of Environmental Legal Requirements.** In the event NST'S violation of environmental Legal Requirements expose Port to fines or penalties as the owner of the Leased Premises, NST shall provide the defense of the Port with respect to such fines and penalties under the appropriate regulatory, administrative, or judicial procedures, and will pay any such fines or penalties timely and promptly after completion of any such defensive or mitigative proceedings, including appeals, if any. In the event of NST'S unreasonably repeated conviction of the same violation of environmental Legal Requirements within any twelve month period, Port may reopen negotiations regarding the Term and Rent under this Lease.

**Section 4.07. INDEMNIFICATION.** EXCEPT WHERE THE PORT IS NEGLIGENT OR TO THE EXTENT IT RELATES TO A CONDITION EXISTING AS OF THE EFFECTIVE DATE, IT IS EXPRESSLY AGREED AND UNDERSTOOD THAT NST SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS PORT, ITS EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, AND BOARD MEMBERS, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, DEMANDS, DAMAGES (INCLUDING WITHOUT LIMITATION REASONABLE LEGAL FEES, COSTS AND EXPENSES), ENFORCEMENT ACTIONS, OR PENALTIES, ARISING OUT OF THE PLACEMENT, TRANSPORTATION, USE, MANUFACTURE, HANDLING, CREATION, STORAGE, TREATMENT, DISCHARGE, OR RELEASE OF ANY HAZARDOUS MATERIALS TO, ON OR FROM THE LEASED PREMISES DURING THE TERM OF THIS LEASE BY NST, OR NST'S AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS OR INVITEES.

**Article 5. Rent.**

**Section 5.01. Rent.** NST shall lease from Port the Leased Premises, for an annual payment of \$6,000.00 for a one year period. A one-time administrative fee of \$2,500.00 shall also be due and payable at the time of execution of this Easement.

**Section 5.02. Place of Payment.** Rental due hereunder shall be paid to Port at its address for notice hereunder or to such other person or at such other address in Calhoun County, Texas, as Port may from time to time designate in writing. Rent shall be paid in legal tender of the United States of America without notice, demand, abatement, deduction or offset except as herein provided.

**Section 5.03. Delinquent Payments.** All Rent and other payments required of NST hereunder which are not paid within ten (10) days following receipt of written notice from Port shall bear interest at the maximum rate allowed by law (or, if there is no maximum rate, at ten percent (10%) per annum) from the date due until the date paid. In no event, however, shall the charges permitted under this Section or elsewhere in this Lease, to the extent any or all of the same are considered to be interest under applicable law, exceed the maximum rate of interest allowable under applicable law.

**Section 5.04. Other Charges:** NST shall comply with and shall pay all local, state and federal taxes (including without limitation, income, franchise, gross receipts, sales, use, excise and real and personal property taxes), governmental charges of any kind whatsoever, payments in lieu of taxes, assessments, special assessments, Licenses, registration fees, freight, and transportation charges and any other charges imposed, assessed, levied or liabilities incurred with respect to

the ownership, the possession or the use of the Leased Premises or pipelines, any payment of the Lease payments or any other payments by NST and any penalties, fines or interest imposed on any of the foregoing (collectively, the "Charges") during the Lease term.

**Section 5.05. NST to Control Charges.** Port shall, to the maximum extent permitted by law, permit NST to pay directly to the relevant taxing or other authorities or third parties all charges due under this Article 5, if NST so requests.

a. NST may, at NST'S expense and in NST'S or Port's name, in good faith contest any charges (and Port shall cooperate fully in any such contest) and, in the event of any such contest, may permit such charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Port shall notify NST that, in the reasonable opinion of Port, by nonpayment of any such charges the interest of Port in the Lease will be materially endangered or any part thereof will be subject to loss or forfeiture, in which event NST shall promptly pay any such charges.

b. NST agrees to conduct any such contest or appeal in a reasonable manner and further agrees that it will not enter into any settlement or compromise that would obligate Port to make any payment or to take or refrain from taking any action, other than ministerial acts.

c. All rebates, refunds or other return of charges shall be paid directly to NST, or if received by the Port, shall be promptly paid over to NST.

**Article 6. Construction, Ownership and Operation of Improvements.**

**Section 6.01. Title to Improvements.** All Improvements are the property of NST. At the expiration of the Term or termination of this Lease, NST may remove such Improvements; and NST shall repair all damage, ordinary wear and tear excepted to the Leased Premises caused by such removal at NST'S cost, expense and liability. At the time of removal NST shall be required to restore the Leased Premises to the reasonably unimproved condition it existed as of the Effective Date. In the event that NST fails to remove its Improvements within one hundred and eighty (180) days of the expiration or earlier termination of the Lease, then, at Port's election (i) NST'S rights, title and interest in and to such Improvements shall be vested in Port without the necessity of executing any conveyance instruments, or (ii) Port shall be entitled to remove and dispose of such Improvements, in a commercially reasonable manner, at NST'S cost, expense and liability.

**Section 6.02. Permits.** NST shall obtain and maintain in effect at all times during the Term all permits, licenses and consents required or necessary for the construction, installation, maintenance, use and operation of the Improvements and NST'S use of and operations at the Leased Premises.

**Section 6.03. Condition of Leased Premises.** NST acknowledges that it has independently and personally inspected the Leased Premises and that it has entered into this Lease based upon such examination and inspection. NST accepts the Leased Premises in its present condition, "AS IS, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED," other than the warranty of quiet enjoyment; specifically, without limiting the generality of the foregoing, without any warranty of (a) the nature or quality of any construction, structural design or engineering of any Improvements currently located at or constituting a portion of the Leased Premises, (b) the quality of the labor and materials included in any such Improvements, or (c) the soil and environmental conditions existing at the Leased Premises and the suitability of the Leased Premises for any particular purpose or developmental potential. Port shall not be required to make any Improvements to the Leased Premises or to repair any damages to the Leased Premises.

**Section 6.04. Repair and Maintenance.** NST shall, consistent with industry practices maintain the Leased Premises at all times during the Term in a good, clean, safe, operable and well-kept condition, and will not commit or allow to remain any waste or damage to any portion of the Leased Premises.

**Section 6.05. Laborers and Mechanics.** NST shall pay for all labor and services performed for, materials used by or furnished to NST, or used by or furnished to any contractor employed by NST with respect to the Leased Premises and hold Port and the Leased Premises harmless and free from any liens, claims, encumbrances or judgments created or suffered by NST. If NST elects to post a payment or performance bond or is required to post an improvement bond with a public agency in connection with the above, NST agrees to include Port as an additional obligee thereunder.

**Article 7. Impositions.** During the Term, NST shall pay or cause to be paid as and when the same shall become due, all Impositions. Impositions that are payable by NST for the tax year in which Commencement Date occurs as well as during the year in which the Term ends shall be apportioned so that NST shall pay its proportionate share of the Impositions payable for such periods of time. Where any Imposition that NST is obligated to pay may be paid pursuant to law in installments, NST may pay such Imposition in installments as and when such installments become due. NST shall deliver to Port evidence of payment of all Impositions NST is obligated to pay hereunder, concurrently with the making of such payment. NST shall, within 60 days after payment

of any Imposition, deliver to Port copies of the receipted bills or other evidence reasonably satisfactory to Port showing such payment.

**Article 8. Transfer by NST.**

**Section 8.01. General.** NST shall not effect or suffer any Transfer without the prior written consent of Port. Any attempted Transfer without such consent shall be void and of no effect. If NST desires to effect a Transfer, it shall deliver to Port written notice thereof in advance of the date on which NST proposes to make the Transfer, together with all of the terms of the proposed Transfer and the identity of the proposed Transferee. Port shall have 30 days following receipt of the notice and information within which to notify NST in writing whether Port elects (a) to refuse to consent to the Transfer and to continue this Lease in full force and effect as to the entire Leased Premises or (b) to permit NST to effect the proposed Transfer. If Port fails to notify NST of its election within said 30 day period, Port shall be deemed to have elected option (b). The consent by Port to a particular Transfer shall not be deemed a consent to any other Transfer. Notwithstanding the foregoing, NST may Transfer this Lease to any affiliate of NST, meaning any person or entity controlling, controlled by or under common control with NST, or a successor to all or substantially all of NST'S assets, each without Port's consent. If a Transfer occurs without the prior written consent of Port, Port may nevertheless collect Rent from the Transferee and apply the net amount collected to the Rent payable hereunder, but such collection and application shall not constitute a waiver of the provisions hereof or a release of NST from the further performance of its obligations hereunder. The parties acknowledge herein that they may enter into a letter agreement pre-approving any potential assignees.

**Section 8.02. Liens.** Without in any way limiting the generality of the foregoing, but subject to the following Section 8.03, NST shall not grant, place or suffer, or permit to be granted, placed or suffered, against all or any part of the Leased Premises or NST'S leasehold estate created hereby, any lien, security interest, pledge, conditional sale contract, claim, charge or encumbrance (whether constitutional, contractual or otherwise) and if any of the aforesaid does arise or is asserted, NST will, promptly upon demand by Port and at NST'S expense, cause same to be released.

**Section 8.03. Construction Financing.** In the event the Improvements or the Lease are used as collateral for construction financing, NST shall give notice of such lien to the Port within 30 days of creation of such lien.

**Article 9. Access by Port.** Port, its employees, contractors, agents and representatives, shall have the right (and Port, for itself and such persons and firms, hereby reserves the right) to enter the Leased Premises during reasonable business hours and upon reasonable notice (a) to inspect the Leased Premises, (b) to show the Leased

Premises to prospective purchasers or tenants, (c) to determine whether NST is performing its obligations hereunder and, if it is not, to perform same at Port's option and NST'S expense or (d) for any other reasonable purpose. In an emergency, Port (and such persons and firms) may use any means to open any door into or in the Leased Premises without any liability therefor. Entry into the Leased Premises by Port or any other person or firm named in the first sentence of this Article for any purpose permitted herein shall not constitute a trespass or an eviction (constructive or otherwise), or entitle NST to any abatement or reduction of Rent, or constitute grounds for any claim (and NST hereby waives any claim) for damages for any injury to or interference with NST'S business, for loss of occupancy or for consequential damages, but Port shall not unreasonably interfere with NST'S use or quiet enjoyment of the Leased Premises.

#### **Article 10. Insurance.**

**Section 10.01.** NST shall procure and maintain continuously in effect with respect to the Leased Premises, insurance against liability for injuries to or death of any persons or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Leased Premises or any part thereof, providing coverage with a combined single limit of \$10,000,000 for injuries to or death of persons or damage to property per occurrence, or in such other amounts and with such other coverages as shall at the time be in accordance with general industry practice for similar facilities and operations of the type and scope of the Leased Premises. In the event of a dispute between the Port and NST as to general industry practice for insurance coverages, the matter may be referred by either party to an independent insurance broker with expertise in industrial insurance for such broker's independent determination of the prudent insurance requirements for such facilities and such determination shall be final and binding on the parties hereto for a period of five years. All such policies of insurance shall designate the Port as a named insured. NST shall furnish to Port a copy of the policy of insurance designating the Port as a named insured within thirty days of the date of execution hereof. In the event NST changes policies, a copy of the new policy designating the Port as a named insured shall be furnished to the Port within ten (10) days.

**Section 10.02. Self-Insurance.** NST may at any time during the Lease Term substitute self-insurance for any insurance coverage required by the terms of this Lease Agreement, to be provided by NST or any affiliate of NST; provided, however, that NST or the relevant affiliate can provide to Port filings with the Securities and Exchange Commission or other audited financial statements demonstrating that NST or the relevant affiliate had as of the end of its most recent fiscal year a consolidated net worth of at least Five Hundred Million Dollars (\$500,000,000).



ARTICLE 11. INDEMNITY.  
EXCEPT WHERE THE PORT IS NEGLIGENT OR ENGAGES IN  
WILLFUL MISCONDUCT FOR ANY CAUSES OF DAMAGE, NST  
HEREBY RELEASES AND DISCHARGES PORT, ITS SUCCESSORS  
AND ASSIGNS, AND ALL OF ITS RESPECTIVE OFFICERS,  
DIRECTORS, COMMISSIONERS, AND THEIR SUCCESSORS IN  
OFFICE, EMPLOYEES, ATTORNEYS, DESIGNEES,  
REPRESENTATIVES AND AGENTS, HEREINAFTER COLLECTIVELY  
AND SEVERALLY REFERRED TO AS "INDEMNITEES" FROM AND  
AGAINST ALL LIABILITY FOR, AND ASSUMES THE RISK OF ALL  
LOSSES, EXPENSES, LIENS, CLAIMS, DEMANDS, DAMAGES AND  
CAUSES OF ACTION OF EVERY KIND AND CHARACTER  
WHATSOEVER FOR DAMAGE TO THE PROPERTY OF INDEMNITEE  
AND OF NST, AND FOR THE PERSONAL INJURY TO OR DEATH OF  
ANY PERSONS (INCLUDING BUT NOT LIMITED TO PORT, ITS  
OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES,  
ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS,  
SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND  
AGENTS OF PORT) AND/OR DAMAGE TO ANY PROPERTY  
(INCLUDING BUT NOT LIMITED TO PROPERTY BELONGING TO  
PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES,  
ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS,  
SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND  
AGENTS) AND FOR ANY OTHER LIABILITY, DAMAGES, FINES OR  
PENALTIES (EXCEPT WHERE REIMBURSEMENT FOR FINES OR  
PENALTIES IS PROHIBITED BY APPLICABLE LAW), INCLUDING  
COSTS, EXPENSES, PENALTIES AND INTEREST, ATTORNEY FEES  
AND SETTLEMENTS HEREINAFTER REFERRED TO COLLECTIVELY  
AND SEVERALLY AS "CLAIMS", ARISING OUT OF OR IN ANY WAY  
CONNECTED WITH THIS LEASE AGREEMENT OR THE  
PERFORMANCE OR FAILURE TO PERFORM THE COVENANTS OF  
THIS LEASE AGREEMENT, SUBJECT TO THE NEGLIGENCE OR  
WILFUL MISCONDUCT OF THE INDEMNITIES, THIS INDEMNITY  
SHALL INCLUDE CLAIMS ARISING OUT OF, BROUGHT BY OR  
CAUSED, IN WHOLE OR IN PART BY NST, ITS OFFICERS,  
DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS,  
SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF NST, AND  
NST EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE  
AND HOLD PORT, ITS OFFICERS, DIRECTORS, COMMISSIONERS,  
EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES,  
TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR  
LICENSEES AND AGENTS, HARMLESS FROM ALL "CLAIMS" OF  
ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO

CLAIMS IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY NST'S, (INCLUDING ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT OR BREACH OF WARRANTY, EXPRESSED OR IMPLIED.

THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL INDEMNITEE FOR A PARTICULAR CLAIM, INsofar AS THAT PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT PRIMARILY FROM THE NEGLIGENCE OR WILLFUL CONDUCT OF THAT INDEMNITEE SEEKING TO ENFORCE THE INDEMNIFICATION.

PORT AND NST ACKNOWLEDGE THAT THIS STATEMENT AND THE FOREGOING INDEMNIFICATION UNDER THIS ARTICLE 11 COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS AND HAS BEEN REVIEWED AND APPROVED BY EACH PARTIES OWN RESPECTIVE INDEPENDENT LEGAL COUNSEL. THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE TERMINATION OF THIS LICENSE.

**Article 12. Casualty Loss.**

**Section 12.01. Obligation to Restore.**

(a) If all or any part of the improvements located on (or constituting a part of) the Leased Premises are destroyed or damaged by any casualty during the Term, NST shall promptly commence and thereafter prosecute diligently to completion the restoration of the same to the condition in which the destroyed or damaged portion existed prior to the casualty. NST will perform such restoration with at least as good workmanship and quality as the improvements being restored, and in compliance with the provisions of Article 6 hereof. Notwithstanding the foregoing provisions of this subparagraph (a) to the contrary, if all such improvements are wholly destroyed by any casualty, or are so damaged or destroyed that, in the Parties' good faith judgment reasonably exercised that it would be uneconomic to cause the same to be restored (and the Parties shall meet to make such determination within 90 Business Days after the date the casualty occurred), then NST shall not be obligated to restore such improvements and this Lease shall terminate as of the date the

Improvements are removed and the property is restored in accordance with §6.01.

(b) If a casualty loss affecting the Leased Premises occurs, all insurance proceeds arising from policies maintained by NST for the damages arising from such casualty shall be distributed and paid directly to the Party actually performing the restoration of the Leased Premises under Sections 6.01 and 12.01(a), as interest may appear, for all damages to the Leased Premises or for costs incurred for the restoration of the Leased Premises to its unimproved condition as provided in Section 6.01.

**Section 12.02. Notice of Damage.** NST shall immediately notify Port of any destruction of or damage to the Leased Premises.

**Article 13. Quiet Enjoyment.** NST, on paying the Rent and all other sums called for herein and performing all of NST'S other obligations contained herein, shall and may peaceably and quietly have, hold, occupy, use and enjoy the Leased Premises during the Term subject to the provisions of this Lease. Port agrees to warrant and forever defend NST'S right to occupancy of the Leased Premises against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, by, through or under Port (but not otherwise), subject to the provisions of this Lease, all matters of record in the Official Records of Calhoun County, Texas, and any unrecorded easements or licenses executed by Port to the extent the foregoing are validly existing and applicable to the Leased Premises.

**Article 14. Default.**

**Section 14.01. Events of Default.** Each of the following occurrences shall constitute an Event of Default by a party under this Lease:

(a) The failure of a Party to pay any amount due under this Lease, and the continuance of such failure for a period of ten (10) days after receipt of notice from the other Party;

(b) The failure by a Party to perform, comply with or observe any other agreement, obligation or undertaking of such Party, and the continuance of such failure for a period of thirty (30) days after receipt of notice from the non-defaulting Party specifying such failure, except that if cure is not reasonably possible within such thirty (30) day period, a Party shall not be in default if it promptly commences cure within such period and thereafter diligently pursues cure until completion;

(c) The filing of a petition by or against NST in any bankruptcy or other insolvency proceeding, or seeking any relief under the federal Bankruptcy Code or any similar debtor relief laws; or

(d) Use of the Leased Premises by Lessee or its successors or assigns for any purpose other than a Permitted Use, as defined in Article 1, and Lessee's failure to cease such impermissible use within thirty (30) days of receipt of notice of such violation from Landlord.

**Section 14.02. Remedies.** Upon the occurrence of an Event of Default, the non-defaulting Party may, in addition to its other remedies, terminate this Lease upon thirty (30) days notice to the other Party; however, such notice shall not be effective if the defaulting party cures the Event of Default within the meaning of Section 14.01(b) above.

**Section 14.03. No Waiver; No Implied Surrender.** Provisions of this Lease may not be waived orally or impliedly, but only by the Party entitled to the benefit of the provision evidencing the waiver in writing. No waiver of any breach by a Party shall constitute a waiver of any subsequent breach.

**Article 15. Right of Reentry.** Upon the expiration or termination of the Term for whatever cause, or upon the exercise by Port of its right to re-enter the Leased Premises without terminating this Lease, NST shall immediately, quietly and peaceably surrender to Port possession of the Leased Premises in the condition and state of repair required under the Lease and NST shall remove the Removable Property in accordance with Section 6.01 hereof. If NST fails to surrender possession as herein required, Port may initiate any and all legal action as Port may elect to dispossess NST and all of its Removable Property and all persons or firms claiming by, through or under NST and all of their Removable Property from the Leased Premises, and may remove from the Leased Premises and store (without any liability for loss, theft, damage or destruction thereto) any such removable Property at NST'S cost and expense. For so long as NST remains in possession of the Leased Premises after such expiration, termination or exercise by Port of its re-entry right, NST shall be deemed to be occupying the Leased Premises as a tenant-at-sufferance, subject to all of the obligations of NST under this Lease, except that the Rent shall be twice the per day Rent in effect immediately prior to such expiration, termination or exercise by Port. No such holding over shall extend the Term. If NST fails to surrender possession of the Leased Premises in the condition herein required, Port may, at NST'S expense, restore the Leased Premises to such condition.

**Article 16. Miscellaneous.**

**Section 16.01. Independent Obligations; No Offset.** The obligations of NST to pay Rent and to perform the other undertakings of NST hereunder constitute

independent unconditional obligations to be performed at the times specified hereunder, regardless of any breach or default by Port hereunder. NST shall have no right, and NST hereby waives and relinquishes all rights which it might otherwise have, to claim any nature of lien against the Leased Premises or to withhold, deduct from or offset against any Rent or other sums to be paid to Port by NST.

**Section 16.02. Applicable Law.** This Lease shall be governed by, construed and shall be enforceable in accordance with the laws of the State of Texas without giving effect to the principles of conflict of laws. Venue for any action brought hereunder shall lie in the State District Courts of Calhoun County, Texas.

**Section 16.03. Assignment by Port.** Port shall have the right to assign, in whole or in part, any or all of its rights, titles or interests in and to the Leased Premises or this Lease and, upon any such assignment, Port shall be relieved of all unaccrued liabilities and obligations hereunder to the extent of the interest so assigned.

**Section 16.04. Estoppel Certificates.** From time to time at the request of Port, NST will promptly and without compensation or consideration execute, have acknowledged and deliver a certificate stating (a) the rights (if any) of NST to extend the Term or to expand the Leased Premises, (b) the Rent (or any components of the Rent) currently payable hereunder, (c) whether this lease has been amended in any respect and, if so, submitting copies of or otherwise identifying the amendments, (d) whether, within the knowledge of NST after due investigation, there are any existing breaches or defaults by Port hereunder and, if so, stating the defaults with reasonable particularity and (e) such other information pertaining to this Lease as Port may reasonably request.

**Section 16.05. Signs.** NST shall not install any signs, placards or other advertising or identifying marks upon the Leased Premises or upon the exterior of any Improvements to or constituting a part of the Leased Premises without the prior written consent of Port, which shall not be unreasonably withheld. NST agrees to remove promptly and to the satisfaction of Port (at NST'S sole cost and expense) upon the expiration or earlier termination of the Term any and all such signs, placards or other advertising or identifying marks.

**Section 16.06. Relation of the Parties.** It is the intention of the parties to create hereby the relationship of Port and NST, and no other relation is hereby created. Nothing in this Lease shall be construed to make the parties partners or joint venturers or to render either party liable for any obligation of the other.

**Section 16.07. Public Disclosure.** Port is a governmental authority subject to the requirements of the Texas Open Meetings Act and the Texas Open Records Act (Texas Government Code Chapters 551 and 552), and as such Port is required to

disclose to the public (upon request) this Lease and certain other information and documents relating to the consummation of the transactions contemplated hereby. In this regard, NST agrees that the disclosure of this Lease or any other information or materials related to the consummation of the transactions contemplated hereby to the public by Port as required by the Texas Open Meetings Act, Texas Open Records Act, or any other Legal Requirement will not expose Port (or any party acting by, through or under Port) to any claim, liability or action by NST.

**Section 16.08. Notices and Billing Address.** All notices and other communications given pursuant to this Lease shall be in writing and shall either be mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, and addressed as set forth in this Lease, or delivered in person to the intended addressee, or sent by prepaid telegram, cable or telex followed by a confirmatory letter. Notice mailed in the aforesaid manner shall become effective three Business Days after deposit; notice given in any other manner, and any notice given to Port, shall be effective only upon receipt by the intended addressee. For the purposes of notice and/or billing, the address of

- (a) Port shall be:  
Calhoun Port Authority  
P. O. Box 397  
Point Comfort, Texas 77978  
Attention: Port Director

and

- (b) NST shall be:  
NST Point Comfort Holdings, LLC  
333 South Grand Avenue, 28<sup>th</sup> Floor  
Los Angeles, CA. 90071

Each party shall have the continuing right to change its address for notice hereunder by the giving of 15 days prior written notice to the other party provided however, if NST vacates the location that constitutes its address for notice hereunder without changing its address for notice pursuant to this Lease, then NST'S address for notice shall be deemed to be the Leased Premises.

**Section 16.09. Entire Agreement, Amendment and Binding Effect.** This Lease constitutes the entire agreement between Port and NST relating to the precise subject matter of this Lease and all prior agreements relative precisely to the subject matter of this Lease which are not contained herein are terminated. This Lease may be amended only by a written document duly executed by Port and NST, and any alleged amendment which is not so documented shall not be

effective as to either party. The provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns; provided, however, that this Section 16.09 shall not negate, diminish or alter the restrictions on Transfers applicable to NST set forth elsewhere in this Lease.

**Section 16.10. Severability.** This Lease is intended to be performed in accordance with and only to the extent permitted by all Legal Requirements. If any provision of this Lease or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of the invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Lease and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

**Section 16.11. Construction.** Unless the context of this Lease clearly requires otherwise, (a) pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character; (b) the singular shall include the plural wherever and as often as may be appropriate; (c) the term "includes" or "including" shall mean "including without limitation"; (d) the word "or" has the inclusive meaning represented by the phrase "and/or"; and (e) the words "hereof" or "herein" refer to this entire Lease and not merely the Section or Article number in which such words appear. Article and Section headings in this Lease are for convenience of reference and shall not affect the construction or interpretation of this Lease. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated article or section of this Lease.

**Section 16.12. Authority.** The person executing this Lease on behalf of NST personally warrants and represents unto Port that (a) (if applicable) NST is a duly organized and existing legal entity, in good standing in the State of Texas (b) NST has full right and authority to execute, deliver and perform this lease, (c) the person executing this Lease on behalf of NST was authorized to do so and (d) upon request of Port, such person will deliver to Port satisfactory evidence of his or her authority to execute this Lease on behalf of NST.

**Section 16.13. Incorporation by Reference.** Exhibit "A" hereto is incorporated herein for any and all purposes.

**Section 16.14. Force Majeure.** Port and NST shall be entitled to rely upon Force Majeure as an excuse for timely performance hereunder only as expressly provided herein and shall not be entitled to rely upon Force Majeure as an excuse for timely performance unless the party seeking to rely on Force Majeure (a) uses

commercially reasonable efforts to overcome the effects of the event of Force Majeure, (b) gives written notice to the other party within 5 days after the occurrence of the event describing with reasonable particularity the nature thereof or as soon thereafter as reasonable communications will permit, (c) commences performance of its obligation hereunder immediately upon the cessation of the event or restoration of use of the Leased Premises, and (d) gives written notice to the other party within 5 days after the cessation of the event advising the other party of the date upon which the event ceased to constitute an event of Force Majeure.

**Section 16.15. Interpretation.** Both Port and NST and their respective legal counsel have reviewed and have participated in the preparation of this Lease. Accordingly, no presumption will apply in favor of either Port or NST in the interpretation of this Lease or in the resolution of the ambiguity of any provision hereof.

**Section 16.16. Multiple Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute but one instrument.

[Signatures follow on Next Page]



EXECUTED this 16<sup>th</sup> day of December, 2015, and effective this 16<sup>th</sup> day of December, 2015.

**CALHOUN PORT AUTHORITY:**



\_\_\_\_\_  
Randy E. Boyd, Board Chair  
Calhoun Port Authority

**ATTEST:**



\_\_\_\_\_  
H. C. Wehmeyer, Jr., Board Secretary  
Calhoun Port Authority

**NST POINT COMFORT HOLDINGS, LLC**

By: \_\_\_\_\_  
\_\_\_\_\_

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015, and effective this  
day of \_\_\_\_\_, 2015.

**CALHOUN PORT AUTHORITY:**

\_\_\_\_\_  
Randy L. Boyd, Board Chair  
Calhoun Port Authority

**ATTEST:**

\_\_\_\_\_  
H. C. Wehmeyer, Jr., Board Secretary  
Calhoun Port Authority

**NST POINT COMFORT HOLDINGS, LLC**

By: Steve Ford  
SVP Commercial

STATE OF TEXAS           §  
                                     §  
COUNTY OF CALHOUN    §

This instrument was acknowledged before me on the 10<sup>th</sup> day of December 2015, by Randy L. Boyd, Board Chair of the Calhoun Port Authority.

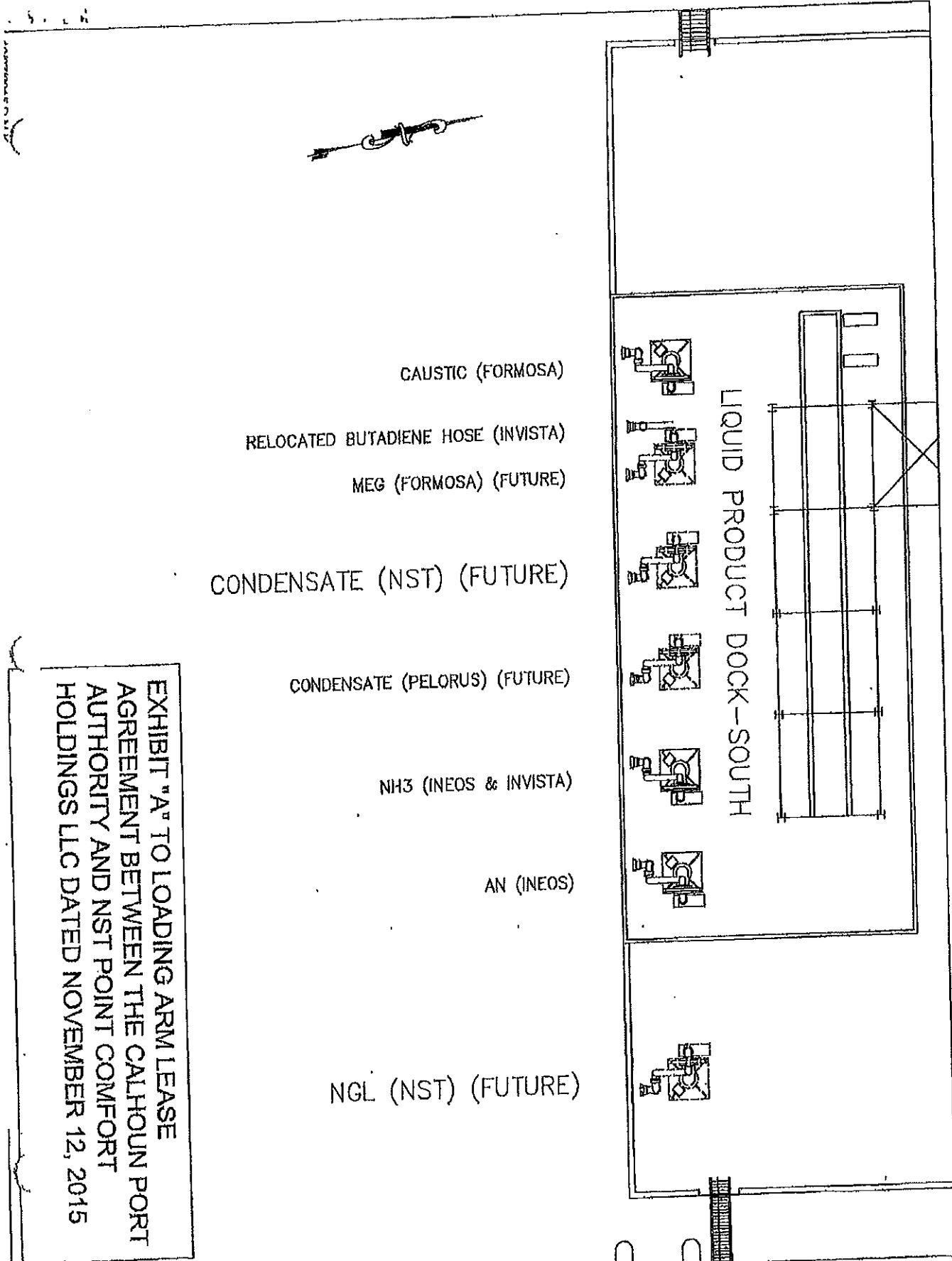


Miranda M. Malek  
Notary Public in and for the State of Texas

STATE OF TEXAS           §  
                                     §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, \_\_\_\_\_ of NST Point Comfort Holdings, LLC.

\_\_\_\_\_  
Notary Public in and for the State of Texas



CAUSTIC (FORMOSA)

RELOCATED BUTADIENE HOSE (INVISTA)

MEG (FORMOSA) (FUTURE)

CONDENSATE (NST) (FUTURE)

CONDENSATE (PELORUS) (FUTURE)

NH3 (INEOS & INVISTA)

AN (INEOS)

NGL (NST) (FUTURE)

LIQUID PRODUCT DOCK--SOUTH

EXHIBIT "A" TO LOADING ARM LEASE  
 AGREEMENT BETWEEN THE CALHOUN PORT  
 AUTHORITY AND NST POINT COMFORT  
 HOLDINGS LLC DATED NOVEMBER 12, 2015





## Port Property & Liability Excess Port Property & Liability Government Crime Insurance Proposal

*Effective: May 1, 2020 - May 1, 2021*

*Presented by:*

*Cindi Heffernan, CPCU  
McGriff, Seibels & Williams, Inc.  
7525 SE 24<sup>th</sup> St., Suite 520  
Mercer Island, WA 98040*



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**Calhoun Port Authority**  
Location Schedule

Loc. No.	Address / Acreage	City	State	Zip	Description
1	2313 FM 1593 S	Point Comfort	TX	77978	Office and Warehouse
2	2313 FM 1593 S	Point Comfort	TX	77978	Maintenance Shop
3	2313 FM 1593 S	Point Comfort	TX	77978	Tower Office Control
4	2313 FM 1593 S	Point Comfort	TX	77978	Seawater Pump Building
5	2313 FM 1593 S	Point Comfort	TX	77978	Freshwater Fire Pump
6	2313 FM 1593 S	Point Comfort	TX	77978	Barge Area Control Building
7	2313 FM 1593 S	Point Comfort	TX	77978	Zone II Powerhouse & Maintenance
8	2313 FM 1593 S	Point Comfort	TX	77978	Operator Shelter - GCD Block House
9	1975 FM 1593 S	Point Comfort	TX	77978	Port Services Building
10	1002 FM 1593 S	Point Comfort	TX	77978	Joslin Plant (non-operating electrical generation plant)
11	2313 FM 1593 S	Point Comfort	TX	77978	Maintenance Office
12	977.16 Acres of Land	Calhoun County	TX	77978	Vacant Land – Alamo Beach Fruit Truck & Farm Land - Tract 1-A, Contract Ref #PO15-164 TR1,C,G&IH and PC_016-012A .052
13	16.83 Acres of Land	Calhoun County	TX	77978	Vacant Land – Bean Tract Plot 1, Block H, Point Comfort First Addition
14	84.24 Acres of Land	Calhoun County	TX	77978	Vacant Land – Bean Tract Plot 2, Tract 7, Thomas Cox Survey, Abstract No. 10
15	6 Acres of Land	Calhoun County	TX	77512	Vacant Land – Bay Point Subdivision
16	4.273 Acres of Land	Calhoun County	TX	77978	Vacant Land – Academy Reserve and Alamo Beach Subdivision
17	56.0316 Acres of Land	Calhoun County	TX	77979	Vacant Land - Alamo Beach



**Calhoun Port Authority**  
Land Schedule

Description	Seller	Quantity - Acre(s)	Lot(s)
Hubbard Tract	Alamo Beach Limited Partnership	833.5000	
Hubbard Tract	Alamo Beach Limited Partnership	105.7600	
Hubbard Tract	Alamo Beach Limited Partnership	17.4300	
Hubbard Tract	Alamo Beach Limited Partnership	8.3200	
Hubbard Tract	Alamo Beach Limited Partnership	8.1900	
Hubbard Tract	Alamo Beach Limited Partnership	20.4600	
	Subtotal	993.6600	
Hubbard Tract	Alamo Beach Limited Partnership	14.1800	
Hubbard Tract	Alamo Beach Limited Partnership	1.0000	
Hubbard Tract	Alamo Beach Limited Partnership	0.5200	
	Subtotal	15.7000	
	Hubbard Total	1009.3600	
Block 119, Lot 14, 15	Sheriff / Shauna L Darger	0.3444	14, 15
Block 37, Lot 20 - 50'x150'	Sheriff / Robert C Donihue	0.1722	20
Block 35, Lot 8 - 50'x130'	Sheriff / Robert C Donihue	0.1492	8
Block 135, Lot 8 - 50'x150'	Sheriff / Robert C Donihue	0.1722	8
Block 90, Lots 25 & 26 - 100'x150'	Sheriff / Robert C Donihue	0.3444	50% Div
Block 78, Lot 14 - 50'x150'	Sheriff / Robert C Donihue	0.1722	50% Div
Block 161, Lot 5	Aino Krepp	9.9800	5
Block 3, Lot 4	Dana Grimes Knowlton	7.2900	4
Block 161, Lot 6	Shirley Foester	7.4800	6
Block 161, Lot 1	David Bone	1.0000	1
Block 161, Lot 2	David Bone	1.0000	2
Tract 15, Block 162	Otto E. Ehm Estate / Anton Kleefeld Estate	9.8200	
Block C, Lots 23-28 Edgewater	Raymond Butler	0.6773	6
Block C, Lots 29-30 Edgewater	Raymond Butler	0.2258	2
Block 102, Lot 2	Sheriff / Paul Peter Gorlack	0.1722	1
Block 134, Lots 11 & 12 & South half of Lot 13	Sheriff / Ricky (Dustin) Diercks	0.4305	2.5
Block 113, Lot 17	Sheriff / Greg Mather	0.1722	1
Block B, Lot 6	Sheriff / Kimberly Grayhorse	0.1129	1
Block 161, Tract PT 6	Gloria Tinnin	2.5000	
Block 161, Tract PT 7	Gloria Tinnin	5.0000	
Academy Reserve Block C, Lot 19, 20, 21, 22 Edgewater	Arnold and Deborah Townley	0.3440	4
Block 147, Alamo Beach Fruit, Truck & Farm Land Division	Joe D., Charles A. Brett & Norma J. Hyatt	4.5000	

Total Acres 1061.4195

Calhoun Port Authority  
Statement of Values

Item/Property Description	Address	Building	Business Personal Property	Equipment	Total Values
Building 1 Warehouse and Office	2313 FM 1593 S Point Comfort, TX 77978	\$1,501,781	\$50,000		\$1,551,781
Building 2 Maintenance Shop	2313 FM 1593 S Point Comfort, TX 77978	\$273,957	\$50,000		\$323,957
Building 3 Control Tower	2313 FM 1593 S Point Comfort, TX 77978	\$1,301,297	\$50,000		\$1,351,297
Building 4 Salt Water Pump Room	2313 FM 1593 S Point Comfort, TX 77978	\$219,165			\$219,165
Building 5 Fresh Water Pump Room	2313 FM 1593 S Point Comfort, TX 77978	\$513,670			\$513,670
Building 6 Barge Block House	2313 FM 1593 S Point Comfort, TX 77978	\$260,259	\$25,000		\$285,259
Building 7 Zone II Generator	2313 FM 1593 S Point Comfort, TX 77978	\$47,943			\$47,943
Building 8 GCD Block House	2313 FM 1593 S Point Comfort, TX 77978	\$178,072			\$178,072
Building 9 Port Services Building	1975 FM 1593 South Point Comfort, TX 77978	\$860,226			\$860,226
Building 10 Joslin Plant	1002 FM 1593 South Point Comfort, TX 77978	\$1,304,558			\$1,304,558
Building 11 Maintenance Office	2313 FM 1593 S Point Comfort, TX 77978	\$25,130			\$25,130
12 Guard House 1		\$17,636			\$17,636
13 Guard House 2		\$17,636			\$17,636
14 Bulkheads, Piers, and Docks				\$10,000,000	\$10,000,000
15 Platform Shelter Pier Blockhouse		\$273,957	\$25,000		\$298,957
16 Two Arm Loading Platform - TBD24 GCD				\$554,610	\$554,610
16 GCD Fire Protection System - TBD25 GCD				\$479,430	\$479,430
16 GCD Fire Protection System Instrument - TBD26 GCD				\$181,755	\$181,755
16 Underground Fire Water Supply Main - TBD27 GCD				\$376,530	\$376,530
16 Intermediate Monopile Dolphin - TBD28 GCD				\$102,375	\$102,375
16 Multi-Pile Breasting Dolphin - TBD29 GCD				\$105,000	\$105,000
16 Dolphin Assess Catwalk - TBD30 GCD				\$94,500	\$94,500
16 Three Arm Loading Platform - TBD31 GCD				\$369,537	\$369,537
JIB Crane	Barge Slip 3			\$17,000	\$17,000
Tank A - Acrylonitrile Storage		\$3,450,000			\$3,450,000
Tank B - Acrylonitrile Storage		\$3,450,000			\$3,450,000
Tank C - Acrylonitrile Storage		\$3,450,000			\$3,450,000
Acrylonitrile Piping		\$580,000			\$580,000
Tank - Ammonia Storage		\$14,000,000			\$14,000,000
14 Motor Control Building		\$191,000			\$191,000
Personnel Cover - AN/NH3	Pier - South Side			\$10,000	\$10,000
Ammonia Pumps				\$570,000	\$570,000
Ammonia Piping				\$2,880,000	\$2,880,000
Ammonia Refrigeration				\$1,130,000	\$1,130,000
Ship Loading Arms AN/NH3				\$960,000	\$960,000
Electrical/Instrumentation Port Wide				\$4,690,000	\$4,690,000
Piperacks GCD				\$630,000	\$630,000
Flare Upgrade				\$450,000	\$450,000
15 Barge Loading Arms				\$1,410,000	\$1,410,000
Pipelines and Loading Arms Pier AN/NH3				\$1,100,000	\$1,100,000
VHF Marine Radio Inventory - 107934073				\$581	\$581
VHF Marine Radio Inventory - 108034905				\$581	\$581
COM Marine Radio Portable Inventory - 059433406				\$581	\$581
COM Marine Radio Portable Inventory - 059733740				\$581	\$581
COM Marine Radio Portable Inventory - 059833737				\$581	\$581
COM Marine Radio Portable Inventory - 059933731				\$581	\$581
COM Portable Marine Radio - 36161				\$581	\$581
COM Portable Marine Radio - 036879				\$581	\$581

Calhoun Port Authority  
Statement of Values

Item/Property Description	Address	Building	Business Personal Property	Equipment	Total Values
VHF Marine Radio - 35658				\$581	\$581
COMM Marine Radio - 38379				\$620	\$620
COMM Marine Radio - 38380				\$620	\$620
COM Marine Radio w/spkr - 1115700				\$442	\$442
COM Marine Radio w/spkr - 1116271				\$442	\$442
HP Laser Jet Printer - CNGDB01333				\$1,526	\$1,526
2002 Toshiba Satellite 2400/S251 - 62072306P				\$1,750	\$1,750
Toshiba Laptop - Z2049843P				\$1,160	\$1,160
Dell Latitude Laptop CPTS500 - 72MUFA01				\$2,328	\$2,328
ID Express System w/ Camera Tripod - 267				\$6,085	\$6,085
Sony Digital Camera - S014048507				\$655	\$655
Server - Dell R720	Admin Office			\$4,113	\$4,113
Light Plant - Terex Portable on trailer	Warehouse			\$4,000	\$4,000
Boat - WellCraft w/200 Mercury & EZ Loader Trlr	Warehouse			\$13,500	\$13,500
Ten Minute Air Pack - NN39062				\$431	\$431
Ten Minute Air Pack - NN39056				\$431	\$431
Ten Minute Air Pack - NN39044				\$431	\$431
Ten Minute Air Pack - NN39044				\$431	\$431
Ten Minute Air Pack - NN39100				\$431	\$431
Ten Minute Air Pack - NN39070				\$431	\$431
Ten Minute Air Pack - NN39039				\$431	\$431
Ten Minute Air Pack - NN39112				\$431	\$431
Ten Minute Air Pack - NN39050				\$431	\$431
Ten Minute Air Pack - NN39099				\$431	\$431
Ten Minute Air Pack - 39040				\$431	\$431
Ten Minute Air Pack - NN39032				\$431	\$431
Ten Minute Air Pack - NN39037				\$431	\$431
Ten Minute Air Pack - NN39068				\$431	\$431
Ten Minute Air Pack - NN39064				\$431	\$431
Ten Minute Air Pack - NN39096				\$431	\$431
Ten Minute Air Pack - NN39107				\$431	\$431
Ten Minute Air Pack - NN39057				\$431	\$431
Ten Minute Air Pack - NN39097				\$431	\$431
Ten Minute Air Pack - NN39041				\$431	\$431
Ten Minute Air Pack - NN39085				\$431	\$431
Miller Bluestar 2 E Welder - JK654720				\$2,258	\$2,258
8'x5' Flatbed Trailer - 12321				\$368	\$368
Stihl Weed Eater - FS86				\$366	\$366
Victor Torch SE - TBD1				\$341	\$341
16'x8' Shop Built Trailer - TBD2				\$630	\$630
Kubota Tractor - 23033				\$14,700	\$14,700
Telex Electric - 191557				\$2,888	\$2,888
Tennant Sweeper - 235-3547				\$16,013	\$16,013
Bush Hog Loader - 12-00154				\$3,154	\$3,154
Hobart Multi Purpose Welding Shop Trailer - 1WS06182				\$4,725	\$4,725
2011 John Deere Gator - XD003914				\$12,000	\$12,000
2006 John Deere 6615 Tractor MFWD - 5B447757				\$49,607	\$49,607
Equipment Cart - CCNDCN3				\$461	\$461
2006 Rhino FR15 Cutter - FR1511291				\$10,815	\$10,815
Instrument Air Compressor & Dryer	Maintenance Shop			\$24,991	\$24,991
Fork lift - Komatsu FG25T-16 LP	Maintenance Shop			\$25,924	\$25,924
Backhoe - Caterpillar 416F2	Maintenance Shop			\$72,678	\$72,678
Man-Lift JLG 660SJ				\$105,450	\$105,450
Hilti Hammerdrill - 04-00170866				\$492	\$492
One Portable Steel Gangway - TBD4 Pier				\$220,500	\$220,500

**Calhoun Port Authority  
Statement of Values**

Item/Property Description	Address	Building	Business Personal Property	Equipment	Total Values
Natl MDL NO 656BM Hydraulic Telescopin - 28248 Pier				\$106,313	\$106,313
Natl MDL NO 656BM Hydraulic Telescopin - 28249 Pier				\$106,313	\$106,313
David Intl MDL NO D-BC01 Electrically O - 0996 Pier				\$32,891	\$32,891
Abaso MDL NO BR90-132 DHY Ski D - TBD5 Pier				\$16,380	\$16,380
1500 Feet of Abasco 18" Beta-1B-PVC - TBD6 Pier				\$10,946	\$10,946
Pier (Consisting of Electronics Only) - TBD7 Pier				\$420,000	\$420,000
Navigation Beacons - TBD8 Pier				\$12,600	\$12,600
Cathodic Rectifiers-Land based part - TBD9				\$29,400	\$29,400
Site Electrical (Tray/Conductors & Fx) - TBD10				\$315,000	\$315,000
MD-1 Electric Panel; Main Switch-6445 - 4964 FWPR				\$78,750	\$78,750
MD-2 Electric Panel; Main Switch-6438 - 4963 FWPR				\$78,750	\$78,750
BD-1 Electric Panel; Main Switch-6443 - 6720 FWPR				\$78,750	\$78,750
BD-2 Electric Panel; Main Switch-6442 - 6717 FWPR				\$78,750	\$78,750
MD-3 Electric Panel; Main Switch-6440 - 6718 FWPR				\$78,750	\$78,750
MD-4 Electric Panel; Main Switch-6439 - 6719 FWPR				\$78,750	\$78,750
Fixtures - TBD11 Pipe Rack Lights				\$157,500	\$157,500
Multi-Purpose Dock Lighting - TBD12				\$5,250	\$5,250
Entrance Gate - TBD13				\$5,250	\$5,250
Navigation Aids - Lights on Poles - TBD14 Turning Basin				\$26,250	\$26,250
Fuel Station - TBD17				\$52,500	\$52,500
Sewer Lift Station Complete - TBD18				\$105,000	\$105,000
Tank - Fire System Tanks 1 MIL Capacity - TBD19				\$367,500	\$367,500
Tank - 2-1/2 MIL Storm Water Collection Tanks - TBD20				\$157,500	\$157,500
Tank - 3 Small Storm Water Collection Tanks - TBD21				\$157,500	\$157,500
Port Security Detection System				\$945,000	\$945,000
Tank - 5000 Gallon Expansion Side				\$10,581	\$10,581
Fire Fighting Foam 8,000 Gallons				\$17,745	\$17,745
Tank - 3000 Gallon GCD				\$4,410	\$4,410
Fire Fighting Foam				\$5,250	\$5,250
Canopy-Over hose reel at waters edge				\$105,000	\$105,000
2600 Ft. Beta 1B PVC Oil Containment Boom - TBD22				\$3,150	\$3,150
2-1300 BETA B Metal Skids w/ Covers - TBD23				\$63,000	\$63,000
UPS 7kVA	Control Tower - Ineos		\$6,985		\$6,985
Dehumidifier	Joslin Building		\$5,515		\$5,515
V-Notch Meter	Wastewater Plant		\$8,801		\$8,801
Tug Power Cabinet	Tug Staging Area		\$70,000		\$70,000
2016 John Deere X750 Riding Mowers w/60" Decks - 2	Maintenance Shop		\$9,930		\$9,930
2016 John Deere X750 Riding Mowers w/60" Decks - 2	Maintenance Shop		\$9,929		\$9,929
A/V System (65" TV, Receiver, 4 Spkrs, 4 Zone Selector)	Board Room		\$10,000		\$10,000
UTV - 2017 John Deere 825i 1M0825GEEHM131747			\$12,993		\$12,933
Com IC-M85 Radios - Handheld (3) 11001614, 11001612, 11001611			\$1,151		\$1,151
Building 6 Barge Block House - Remodel					\$22,905
AN/NH3 Shelter Roof Replacement					\$12,200
Grinder Pump - Sewer Plant				\$2,204	\$3,268
Mitel Phone System (2 Controllers & 21 phones)				\$14,772	\$24,868
UTV 571HM- 2019 John Deere Gator				\$8,332	\$8,332
30 Minute Drager Air Packs (6)				\$10,824	\$10,824
Bucket for Backhoe				\$1,348	\$1,348
<b>Totals</b>		<b>\$31,916,288</b>	<b>\$200,000</b>	<b>\$30,619,110</b>	<b>\$62,735,398</b>

Business Interruption

\$3,000,000

Grand Total

\$65,735,398

## Primary Port Property – MPortsPlus Property Coverage Form

**Insurer:** Lloyds of London Underwriters  
**Policy Number:** MAHHZ2001438  
**Term:** May 1, 2020 – May 1, 2021  
**Status:** Non-Admitted  
**Rating:** A.M. Best Rating: A XV  
**Exposure:** \$65,735,398 Total Insured Values

Primary Port Authority Property	Limits
All Risk Property Damage – Combined Single Limit	\$5,000,000
Real Property	Included
Contents	Included
Equipment	Included
Hull & Machinery	\$13,500
Boiler & Machinery Breakdown	Included
Business Interruption/Extra Expense	\$3,000,000
Named Storm	Included
Flood	Included
Earthquake	Included
Emergency Dredging	Included
Course of Construction	\$1,000,000
Prevention of Access (30 Day Limitation)	\$2,500,000
Service Interruption	\$1,000,000
Contingent Business Interruption	\$500,000
Terrorism	Included
<i>Deductibles</i>	
All Other Perils	\$10,000
Business Interruption	10 days
Service Interruption	24 Hours
Named Storm/Flood/Earthquake/Sinkholes - Applied Per Unit Damaged	3% - Subject to \$500K Min / \$1.5M Max*
Emergency Dredging	\$250,000
Hull & Machinery	\$1,000
Annual Premium *	\$199,500.00
Est. Annual Surplus Lines Taxes & Fees (5%)	\$9,975.00
<b>Annual Total Due</b>	<b>\$209,475.00</b>

\* Premium includes a Continuity Credit of 5%, payable at inception.

### Forms & Conditions:

- Per McGriff, Seibels & Williams, Inc. Port Property Form including Terrorism
- 25% Minimum Earned Premium
- Brokers Cancellation Clause
- Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause
- Sanction Limitation an Exclusion Clause
- Marine Cyber Endorsement
- Institute Service of Suit Clause
- Texas Surplus Lines Clause & Texas Complaints Notice
- Coronavirus Exclusion

## Excess Port Property – MPortsPlus Property Coverage Form

**Insurer:** Lloyds of London Underwriters  
**Policy Number:** MAHHZ2001444  
**Term:** May 1, 2020 – May 1, 2021  
**Status:** Non-Admitted  
**Rating:** A.M. Best Rating: A XV  
**Exposure:** \$65,735,398 Total Insured Values

Excess Port Authority Property	Limits
Excess Property (\$40M Total Limit)	\$35,000,000
Named Storm	Included
Flood	Included
Earthquake	Included
Excess Emergency Dredging (\$10M Total Limit)	\$5,000,000
Terrorism	Included
<i>Excess Over</i>	
<i>U/L: Primary Property #MAHHZ20001438</i>	\$5,000,000
<i>Annual Premium*</i>	\$152,016.00
<i>Est. Annual Surplus Lines Taxes &amp; Fees (5%)</i>	\$7,600.80
<b>Annual Total Due</b>	<b>\$159,616.80</b>

\* Premium is subject to a Continuity Credit of 2.5%, payable at expiry. Subject to renewal with same insurers and net loss ratio less than 65%.

### Forms & Conditions:

- Per McGriff, Seibels & Williams, Inc. Port Property Form including Terrorism - Follow form Primary Port Property #MAHHZ2001438
- 25% Minimum Earned Premium
- Brokers Cancellation Clause
- Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause
- Sanction Limitation an Exclusion Clause
- Marine Cyber Endorsement
- Institute Service of Suit Clause
- Texas Surplus Lines Clause & Texas Complaints Notice
- Coronavirus Exclusion

## Primary Port Liability – MPortsPlus Liability Coverage Form

**Insurer:** Lloyds of London Underwriters  
**Policy Number:** MAHHZ2001438  
**Term:** May 1, 2020 – May 1, 2021  
**Status:** Non-Admitted  
**Rating:** A.M. Best Rating: A XV  
**Exposure:** \$17,986,057 Operating Revenue

Primary Port Authority Liability	Limits
Limit of Liability – Combined Single Limit	\$5,000,000
Bodily Injury/Property Damage	Included
Products & Complete Operations	Included
Personal Advertising Injury	Included
Employee Benefits Liability	Included
Protection & Indemnity	Included
Terminal Operators Legal Liability	Included
Stevedore's Legal Liability	Included
Wharfingers Legal Liability	Included
Errors & Omissions	Included
Sudden & Accidental Pollution	Included
Rail Liability ( <i>within Port confines</i> )	Included
Waiver of Sovereign Immunity	Included
In Rem	Included
Removal of Non Owned Vessel	Included
TRIA	Included
<i>Excess Limit (Subject to Combined Single Limit)</i>	<i>\$4,000,000</i>
<i>U/L: Commercial Auto</i>	<i>\$1,000,000</i>
<i>U/L: Employers Liability</i>	<i>\$1,000,000</i>
<i>Deductible</i>	
<i>Port Liability</i>	<i>\$10,000</i>
<i>Annual Premium*</i>	<i>\$30,875.00</i>
<i>Est. Annual Surplus Lines Taxes &amp; Fees (5%)</i>	<i>\$1,543.75</i>
<b>Annual Total Due</b>	<b>\$32,418.75</b>

\* Premium includes a Continuity Credit of 5%, payable at inception.

### Forms & Conditions:

- As per McGriff, Seibels & Williams, Inc. Port Liability Form
- Excess Auto & Employers Liability
- Punitive Damages Excluded where Prohibited by Law
- 25% Minimum Earned Premium
- Brokers Cancellation Clause
- US Terrorism Risk Insurance Act of 2002 as amended New & Renewal Business Endorsement
- Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause
- Sanction Limitation an Exclusion Clause
- Institute Cyber Attack Exclusion Clause
- Institute Service of Suit Clause
- Texas Surplus Lines Clause & Texas Complaints Notice
- Coronavirus Exclusion

## Excess Port Liability – MPortsPlus Liability Coverage Form

**Insurer:** Lloyds of London Underwriters  
**Policy Number:** MAHHZ2001444  
**Term:** May 1, 2020 – May 1, 2021  
**Status:** Non-Admitted  
**Rating:** A.M. Best Rating: A XV  
**Exposure:** \$17,986,057 Operating Revenue

Excess Port Authority Liability	Limits
Excess Liability (\$10M Total Limit)	\$5,000,000
TRIA	Included
<i>Excess Over</i>	
<i>U/L: Primary Port Liability #MAHHZ2001438</i>	\$5,000,000
<i>Annual Premium*</i>	\$23,225.00
<i>Est. Annual Surplus Lines Taxes &amp; Fees (5%)</i>	\$1,161.25
<b>Annual Total Due</b>	<b>\$24,386.25</b>

\* Premium is subject to a Continuity Credit of 2.5%, payable at expiry. Subject to renewal with same insurers and net loss ratio less than 65%.

### Forms & Conditions:

- As per McGriff, Seibels & Williams , Inc. Port Liability Form - Follow Form Primary Port Liability #MAHHZ2001438
- Punitive Damages Excluded where Prohibited by Law
- 25% Minimum Earned Premium
- Brokers Cancellation Clause
- US Terrorism Risk Insurance Act of 2002 as amended New & Renewal Business Endorsement
- Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion Clause
- Sanction Limitation an Exclusion Clause
- Marine Cyber Endorsement
- Institute Service of Suit Clause
- Texas Surplus Lines Clause & Texas Complaints Notice
- Coronavirus Exclusion



## Government Crime – Discovery Form

**Insurer:** Fidelity and Deposit Company of Maryland (Zurich)  
**Policy Number:** TBD  
**Term:** May 1, 2020 – May 1, 2021  
**Status:** Admitted  
**Rating:** A.M. Best Rating: A+ XV

Government Crime	Limits
Employee Theft - Per Loss	\$300,000
Forgery or Alteration	\$300,000
<i>Deductible - Each Occurrence</i>	<i>\$3,000</i>
<i>Annual Premium*</i>	<i>\$535.00</i>
<i>Est. Annual Surplus Lines Taxes &amp; Fees (5%)</i>	<i>N/A</i>
<b>Annual Total Due</b>	<b>\$535.00</b>

*\*The current policy term runs 6/1/19 – 6/1/20. We are going to cancel/rewrite effective 5/1/20 – 5/1/21 to get concurrent with other lines. There will be a pro-rata return premium, which will be returned to you upon receipt from the carrier.*

### Forms & Conditions:

- As per Government Crime Policy Discovery Form
- Endorsement: Include Designated Agents as Employees
- Texas Notice – Discovery Form (within 60 Days)
- Sanctions Exclusion Endorsement
- Important Notice – In Witness Clause
- Endorsement: Designated Agents as Employees – **Nationwide Retirement Solutions** (\$300,000 limit / \$2,500 deductible)

## Calhoun Port Authority 2020 Premium Comparison

	2019 Expiring	2019 Trended	2020 Renewal	Difference
<b>Port Property Premium</b>	<b>\$169,575</b>	<b>\$176,314</b>	<b>\$199,500</b>	<b>\$29,925</b>
Exposure: Total Insured Value	\$63,222,848	\$65,735,398	\$65,735,398	\$2,512,550
Rate	0.27%	0.27%	0.30%	0.04%
<b>Excess Port Property Premium</b>	<b>\$115,746</b>	<b>\$120,346</b>	<b>\$152,016</b>	<b>\$36,270</b>
Exposure: Total Insured Value	\$63,222,848	\$65,735,398	\$65,735,398	\$2,512,550
Rate	0.18%	0.18%	0.23%	0.05%
<b>Port Liability Premium</b>	<b>\$22,580</b>	<b>\$28,608</b>	<b>\$30,875</b>	<b>\$8,295</b>
Exposure: Gross Revenue	\$14,196,159	\$17,986,057	\$17,986,057	\$3,789,898
Rate	0.16%	0.16%	0.17%	0.01%
<b>Excess Port Liability Premium</b>	<b>\$16,125</b>	<b>\$20,430</b>	<b>\$23,225</b>	<b>\$7,100</b>
Exposure: Gross Revenue	\$14,196,159	\$17,986,057	\$17,986,057	\$3,789,898
Rate	0.11%	0.11%	0.13%	0.02%
<b>Government Crime</b>	<b>\$653</b>	<b>\$574</b>	<b>\$535</b>	<b>(\$118)</b>
Exposure: Employees	16	14	14	(2)
Rate	\$41	\$41	\$38	(\$3)
<b>Annual Premium Total*</b>	<b>\$324,026</b>	<b>\$346,272</b>	<b>\$406,151</b>	<b>\$81,472</b>
Difference from Expiring	N/A	\$22,246	\$82,125	
Difference from Trended	N/A	N/A	\$59,879	

\* Premiums indicated do not include Surplus Lines Taxes & Fees

## Service Location

McGriff, Seibels & Williams, Inc.  
 7525 SE 24<sup>th</sup> Street, Suite 520  
 Mercer Island, WA 98040

## Service Team

Team Member	Contact Information
Cindi Heffernan, CPCU Vice President	Direct Phone: 206-357-8476 Cell Phone: 206-669-6289 E-Mail: <a href="mailto:CHEffernan@McGriff.com">CHEffernan@McGriff.com</a>
Destiny Dawson Senior Account Manager	Direct Phone: 503-943-6652 Cell Phone: 971-985-8983 E-Mail: <a href="mailto:Destiny.Dawson@McGriff.com">Destiny.Dawson@McGriff.com</a>
Kyle Whelchel Team Support	Direct Phone: 503-943-6378 E-Mail: <a href="mailto:KWhelchel@McGriff.com">KWhelchel@McGriff.com</a>

## McGRIFF, SEIBELS & WILLIAMS, INC. COMPENSATION STATEMENT

Our principal remuneration for the placement and service of your insurance policy(ies) will be by commission (a proportion of the premium paid that is allowed to us by the insurance company(ies)) and/or a mutually agreed fee.

You should be aware that we may receive additional income from the following sources:

**Interest or Investment Income** earned on insurance premiums.

**Expense Allowances or Reimbursements** from insurance companies and other vendors for (a) educational and professional development programs; (b) managing and administering certain binding authorities and other similar facilities, including claims which may arise; and (c) attendance at insurance company meetings and events; all of which we believe enable us to provide more efficient service and competitive terms to those clients for whom we consider the use of such facilities appropriate.

**Tier II Commission** (sometimes referred to as “extra compensation”) is exclusive to the placement of employee benefits insurance and is based on premium volume of new business and/or premium retention.

**Contingent Commission** (sometimes referred to as “profit sharing”) which can be based on profitability, premium volume, premium retention, and/or growth. If any part of your account is on a fee basis, we will not accept contingent commissions related to your account.

If you have questions or desire additional information about remuneration and other income, please contact your Agent who will put you in touch with our Chief Risk Manager for assistance. If any part of your insurance program is placed through any BB&T-owned companies (including retail insurance brokers BB&T Insurance Services, Inc. and BB&T Insurance Services of California, Inc.; wholesale insurance brokers CRC Insurance Services, Inc. and Crump Life Insurance Services, Inc.; managing general underwriter AmRisc, LLC; insurance premium finance company, Prime Rate Premium Finance Corporation, Inc. or affiliates; or BB&T Assurance Company, Ltd.) disclosure of that income will also be included.

4/1/2016 Ed

## McGRIFF, SEIBELS & WILLIAMS, INC. PROVIDER SECURITY STANDARDS

The following is a brief summary of the measures that we have taken as your broker to review and report to you objectively on the financial security of your insuring companies. Information is included on A.M. Best Company, our primary security rating source, and the internal standards, which we have established to address this important issue for our customers.

**MSW Security Review** - McGriff, Seibels & Williams has established an internal "Security Review Group" composed of senior management representatives from the Finance, Marketing, Branch, Wholesale and Administrative Divisions of the company. This group's purpose is to develop and implement all procedures and standards for the financial security of all insurers, intermediaries and associations used by MSW and its subsidiary companies.

This group meets periodically to review the current listing of all companies, intermediaries and associations, which are actively used by MSW. It will also act on any pending requests received from throughout the company to have new Providers activated, and to deactivate any Providers that do not meet current MSW standards.

### **MSW Provider Classifications:**

**"Approved Provider"** is any Provider whose A.M. Best's rating is **A-** or higher. The Best's rating of an "approved" Provider must be printed on all MSW Confirmations of Coverage (Binders) and proposals delivered to clients or prospects.

**"Exception Provider"** is certain Providers with a rating lower than A-, including those companies "not rated by A.M. Best" which after review by the Security Review Group will be an approved security.

**Any Provider approved by MSW receiving an A.M. Best downgrade of rating will be posted on our website ([www.mcgriff.com](http://www.mcgriff.com)). A downgrade that results in an "Approved" Provider moving to a less than A- A.M. Best Rating will be communicated to you in writing.**

### **A.M. Best Company**

Ambest Road  
Oldwick, New Jersey 08858

**History** - A.M. Best Company was incorporated in 1899 as the first rating agency in the world to offer reliable information on the financial condition of U.S. insurance companies. The **Best's Rating Guide** was first published in 1900, and has since become a cornerstone of the security review process by continuously evaluating the financial integrity of over 4,100 insurance companies. In 1984, the first edition of the **Best's International Rating Guide** was published, reporting on the claims-paying ability of over 950 international insurers.

The information used by Best to rate insurance carriers is provided by the companies themselves as a part of their normal filings with the National Association of Insurance Commissioners, those states in which the company is licensed, the SEC and/or with its shareholders. Rating reviews are performed annually on each insurance company and on an interim basis as conditions dictate.

**Best's Rating System** - The Best's rating system is designed to evaluate a wide range of objective and subjective factors that affect the overall performance of an insurance company (not applicable to associations or intermediaries). These factors deal with the company's financial strength, its operating performance and its ability to meet its financial obligations to policyholders, as follows:

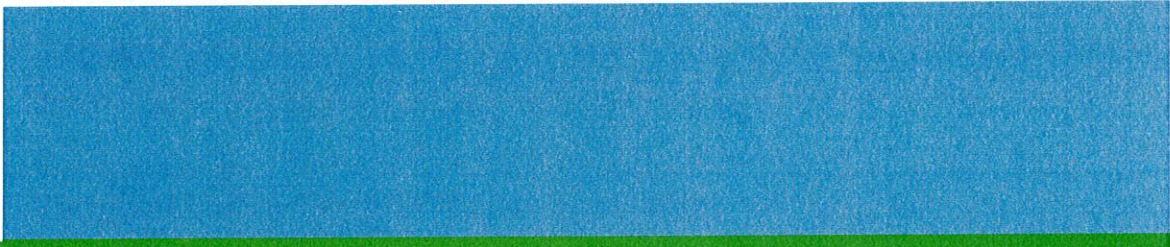
- \* Profitability
- \* Quality of reinsurance program
- \* Quality and diversification of assets
- \* Adequacy of policy loss reserves
- \* Capital structure
- \* Spread of risk
- \* Leverage/Capitalization
- \* Liquidity
- \* Adequacy of policyholder's surplus
- \* Management experience and objectives

**Best's Rating Symbols** - A typical Best's rating is composed of two parts. The "**Security**" portion provides an alphabetical indication of the quality of the security provided by a company to its policyholders. This rating is further defined in three categories, "Secure", "Vulnerable" or "Not Assigned". The "**Financial Size**" (FSC) portion of the Best's rating uses Roman numerals to rank companies based on the dollar amount of their policyholder's surplus and contingent reserve funds.

While comparative rankings for security or financial size by themselves may not adequately portray the complete financial health of a company, the combination of the two has proven to be reliable in predicting the ability of a company to meet its claims obligations in a timely manner, both now and in the near future. The actual rating symbols used by Best and their meanings are:

<b>"Secure" Ratings</b>	A++ or A+	Superior
	A or A-	Excellent
	B++ or B+	Good
<b>"Vulnerable" Ratings</b>	B or B-	Fair
	C++ or C+	Marginal
	C or C-	Weak
	D	Poor
	E	Under Supervision
	F	In Liquidation
	S	Suspended

**"NR" Not Rated Designation** – Assigned to companies not rated by A.M. Best.



**Financial Size Categories I**

I	Under \$1,000,000	VIII	100,000,000 – 250,000,000
II	1,000,000 - 2,000,000	IX	250,000,000 – 500,000,000
III	2,000,000 – 5,000,000	X	500,000,000 – 750,000,000
IV	5,000,000 – 10,000,000	XI	750,000,000 – 1,000,000,000
V	10,000,000 – 25,000,000	XII	1,000,000,000 – 1,250,000,000
VI	25,000,000 - 50,000,000	XIII	1,250,000,000 – 1,500,000,000
VII	50,000,000 – 100,000,000	XIV	1,500,000,000 – 2,000,000,000
		XV	Over 2,000,000,000

**Source: Best's Key Rating Guide - 2016 Edition**

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## **McGRIFF, SEIBELS & WILLIAMS, INC.**

### **THIRD PARTY DISCLAIMER**

From time to time, McGriff, Seibels & Williams, Inc. ("MSW") may share opinions or content regarding third party entities, third party providers of services, or make referrals to third party products and/or services ("Third Party Entities, Products and/or Services"). Any such opinions or content regarding Third Party Entities, Products and/or Services, or links to third party websites shared or posted on MSW's website or social media sites do not constitute an endorsement of any third party, individual, organization, service, or product by MSW, nor does such activity indicate an affiliation with or sponsorship by MSW.

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