

CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT

211 Miller Street
P.O. Box 518
Anahuac, Texas 77514



Phone: (409)267-3541
Fax: (409)267-4042
Website: www.clcnd.org

COASTAL EASEMENT NO _____

STATE OF TEXAS]

KNOW ALL BY THESE PRESENTS:

COUNTY OF CHAMBERS]

This Coastal Easement No. _____, (the "Easement" or the "Agreement") is granted by virtue of the authority granted by Article XVI, Section 59, Constitution of the State of Texas, Chapters 62 and 63 of the Texas Water Code, Chapter 33, TEX. NAT. RES.CODE ANN. and 31 Texas Administrative Code Chapters 1 and 155, and all amendments thereto, and subject to all rules and regulations promulgated by the Board of Navigation and Canal Commissioners of the Chambers-Liberty Counties Navigation District ("CLCND") pursuant thereto and all other applicable statutes.

ARTICLE I. Parties

1.01. In consideration of the mutual covenants and agreements set forth in this Easement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Chambers-Liberty Counties Navigation District ("CLCND"), acting by and through the General Manager, (the "Grantor"), does hereby grant to _____, whose address is _____, (the "Grantee") the right to use a tract of CLCND-owned real property (the "Premises," as defined below in Article II) for the purposes described in Article VI of this Easement.

ARTICLE II. Premises

2.01. The land Grantee may use is described as follows:

[Description of Land]

The Easement is restricted to the location of the structure as-built (the "Easement Area"). The Easement Area shall not exceed the scope of work

detailed in Grantee's easement application CLCND approved (hereby incorporated by reference) pursuant to which this Easement is granted.

2.02. Grantee represents that the Premises are located adjacent to property which is owed by Grantee or in which Grantee has a possessory interest, which property is identified by Legal Description as follows:

[Legal Description/Reference to Exhibit A]

Grantee acknowledges that if Grantee is divested of its interest in the above-described adjacent property, Grantor may terminate this Agreement upon ten (10) days written notice to Grantee.

2.03. The Grantor and Grantee acknowledge and agree that Grantee's right to use the Premises is exclusive as to any Improvements, as that term is specifically defined herein at Article VI, located or to be located thereon, and non-exclusive as to the remainder.

2.04. Grantee acknowledges and agrees that when any authorized Improvements are placed on the Premises, the location of such Improvements shall thereby become fixed at such location and shall not be changed except by a written amendment to this Agreement.

2.05. GRANTEE HAS INSPECTED THE PHYSICAL AND TOPOGRAPHIC CONDITION OF THE PREMISES AND ACCEPTS THE SAME "AS IS", IN ITS EXISTING PHYSICAL AND TOPOGRAPHIC CONDITION. GRANTEE ACKNOWLEDGES THAT IT IS NOT RELYING ON ANY REPRESENTATION, STATEMENT OR OTHER ASSERTION OF GRANTOR WITH RESPECT TO THE CONDITION OF THE PREMISES, BUT IS RELYING ON GRANTEE'S OWN INSPECTION OF THE PREMISES. GRANTOR DISCLAIMS ANY AND ALL WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AND ANY OTHER EXPRESS OR IMPLIED WARRANTY NOT EXPRESSLY SET FORTH IN THIS EASEMENT. GRANTOR AND GRANTEE HEREBY ACKNOWLEDGE AND AGREE THAT THE USE OF THE TERM "GRANT" AND/OR THE TERM "CONVEY" IN NO WAY IMPLIES THAT THIS EASEMENT IS FREE OF LIENS, ENCUMBRANCES, AND/OR PRIOR RIGHTS. GRANTEE IS HEREBY PUT ON NOTICE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCE MAY BE OF RECORD AND GRANTEE IS ADVISED TO EXAMINE THE RECORDS IN THE ARCHIVES AND RECORDS OF CLCND, AND ALL LAND TITLE RECORDS OF THE COUNTY IN WHICH THE PREMISES ARE LOCATED.

ARTICLE III. Term

3.01. This Easement is for a total period of _____, beginning effective _____ and terminating on _____, unless earlier terminated as provided in this Easement.

ARTICLE IV. Rent

4.01. As consideration for the granting of this Easement, Grantee agrees to pay Grantor on an annual basis as consideration ("Rent"), the total sum of _____. This Rent is payable with _____ due at the time of filing, and the balance shall be due on or before the first day of each "Easement Year" (as such phrase is defined in Section 4.02), in _____ annual installments of _____.)

4.02. For the purposes of this Easement, the phrase "Easement Year" means the period from _____ of one (1) year through _____ of the following year, with the first Easement Year commencing on _____.

4.03. All Rent any other sums hereunder provided to be paid by Grantee shall be due and payable by Grantee without demand, deduction, abatement, or offset. Past due Rent and other past due payments shall bear interest from maturity at the rate of ten percent (10%) per annum from the date when due until actually paid, as provided in Section 51.301, TEX. NAT.RES. CODE ANN. Failure of Grantee to make a payment on or before the date the same becomes due shall, at the option of Grantor, make all payments due and payable immediately.

ARTICLE V. Taxes

5.01. Grantee shall, as further consideration for this Easement, pay and discharge all taxes ("Taxes" as hereinafter defined) properly assessed in any calendar year (or portion thereof) during the term of this Easement. For the purposes of this Easement, the term "Taxes" means all taxes, assessments, impositions, levies, charges, excises, fees, licenses and other sums (whether now existing or hereafter arising, whether foreseen or unforeseen and whether under the present system of real estate taxation or some other system), which during the term of this Easement may be levied, assessed, charged or imposed by any governmental authority or other taxing authority or accrue on the Premises and any Improvements or other property thereon, whether belonging to Grantor or Grantee, or to which either of them may become liable in relation thereto. The term "Taxes" shall also include all penalties, interest and other charges payable by reason of any delay or failure or refusal of Grantee to make timely payments as required pursuant to this Section 5.01.

5.02. Grantee agrees to and shall protect and hold harmless Grantor and the Premises from liability for any and all Taxes, together with any interest, penalties, or other sums thereon imposed, and from any sale or other proceeding to enforce payment thereof.

5.03. Grantee agrees to pay all Taxes directly to the applicable taxing authority not less than fifteen (15) days prior to the date of delinquency thereof.

ARTICLE VI. Use of Premises

6.01. Grantee shall have the right to use the Premises solely for the following improvements:

_____ (“Improvements”). Grantee shall not use the premises for any other purpose without obtaining prior written consent of Grantor, which consent may be granted or withheld by the Grantor in its sole discretion.

6.02. Grantee, at its own expense, will comply with all federal, State, municipal and other laws, codes, ordinances, rules and regulations applicable to the Premises including, without limitations, those dealing with environmental and health issues; and will install, remove and alter such equipment and facilities in, and make such alterations to, the Premises as may be necessary to comply. Grantee will not make any unlawful use of the Premises or permit any unlawful use thereof; and will not commit, or permit anyone else to commit, any act which is a nuisance or annoyance to Grantor or adjacent property owners or tenants, or which might, in the exclusive judgment of Grantor, damage Grantor’s goodwill or reputation, or tend to injure or depreciate the value of the Premises and/or any Improvements located thereon.

6.03. Grantee shall use the highest degree of care and all appropriate safeguards to prevent pollution of air, ground and water in and around the Premises, and to protect and preserve natural resources and wildlife habitat. In the event of pollution of or damage to natural resources in or around the Premises which is the result of an act or omission of Grantee, its officers, employees, agents, representatives, contractors, and/or invitees, Grantee shall immediately notify the CLCND and undertake all required and appropriate action to remedy the same. Grantee shall be liable for all damages and/or mitigation to the Premises and public lands and waters as a result of such act or omission.

6.04. Grantee shall insure that all Improvements constructed by it and/or operated on the Premises are visible to operators of marine craft at all times. Grantee shall further take any and all steps necessary to insure that Improvements constructed by it and/or placed or operated on the Premises do not constitute a hazard to operators of marine craft. Grantee may not restrict or prevent other person from access to navigating open, navigable waters.

6.05. GRANTEE IS EXPRESSLY PLACED ON NOTICE OF THE NATIONAL HISTORICAL PRESERVATION ACT OF 1966, (PB-89-66 STATUTE 915; 16 U.S.C.A.~470) AND THE ANTIQUITIES CODE OF TEXAS, CHAPTER 191, TEX. NAT.RES. CODE ANN. IN THE EVENT THAT ANY SITE, OBJECT, LOCATION, ARTIFACT, OR OTHER FEATURE OF ARCHEOLOGICAL, SCIENTIFIC, EDUCATIONAL, CULTURAL, OR HISTORIC INTEREST IS ENCOUNTERED DURING THE ACTIVITIES AUTHORIZED BY THIS EASEMENT, GRANTEE WILL IMMEDIATELY CEASE SUCH ACTIVITIES AND WILL IMMEDIATELY NOTIFY GRANTOR AND THE TEXAS HISTORICAL COMMISSION, P.O. BOX 12276, AUSTIN, TEXAS 78711, SO THAT ADEQUATE MEASURES MAY BE UNDERTAKEN TO PROTECT OR RECOVER SUCH DISCOVERIES OR FINDINGS, AS APPROPRIATE.

6.06. By execution of this Agreement, Grantee authorizes the CLCND, its officers, agents, representatives and employees to access the Premises over and across Grantee's adjacent property described in Section 2.02. In exercising such right, Grantor agrees not to unreasonably interfere with Grantee's use of such property, and Grantor agrees to exercise its right of ingress and egress only at reasonable times (except in an emergency) for purposes of inspection, repair and as necessary to protect the Grantor's interests. Grantor agrees to use the adjacent land owned by Grantee only to the extent and for the length of time necessary to provide access to and from the Premises. The foregoing authorization creates a license only and does not create an easement over Grantee's adjacent property.

6.07. Grantee acknowledges and agrees that Grantor's right of ingress and egress described in Section 6.06 of this Agreement shall remain in effect as long as the Improvements and any other structure placed on the premises by Grantee remain on the Premises and/or as necessary for Grantor to confirm the removal, in whole or in part, of the Improvements. Such right of ingress and egress shall survive the termination of this Agreement.

6.08. Grantee's use of the Premises is subject to compliance with the following covenants, obligations and conditions (the "Special Conditions"):

1. If any structure authorized herein, the size, configuration or location of which is otherwise governed by a specific General Land Office ("GLO")/School Land Board guideline or rule, or if the structures authorized herein, considered as a whole, are destroyed or damaged in excess of fifty percent (50%) of the existing square footage during the term of this instrument, reconstruction of the structure, or structures as a whole, shall be limited to the size, configuration, and location allowed by GLO/School Land Board guidelines or rules in effect at the time of the damage or destruction. Written approval must be obtained from the CLCND before the structure can be rebuilt (if destroyed completely) or repaired (if fifty percent (50%) or more of the structure is damaged). **FAILURE TO OBTAIN WRITTEN PERMISSION FROM THE CLCND PRIOR TO REBUILDING OR REPAIR SUBJECTS THIS EASEMENT TO TERMINATION.**

6.09. Prior to undertaking construction or installation of Improvements on the Premises, Grantee shall provide written notice of the terms of this Agreement, including the Special Conditions, to each person or entity authorized by Grantee to perform any such activity on its behalf. Grantee shall retain a copy of each such written notice provided to its agents,

representatives, employees, and/or contractors under this provision and, if a dispute arises concerning construction or installation of the Improvements, Grantee shall provide Grantor with a copy of all applicable notices within ten (10) days of Grantor's written request. Grantee's failure to maintain and provide each required written notice shall constitute a default under this Agreement.

6.10. If Grantee fails to maintain and/or repair Improvements in good condition and repair, such failure shall constitute a default under this Agreement, and Grantor may, at its option, terminate this Agreement upon written notice to Grantee or pursue a remedy under Sections 51.302 and 51.3021, TEX. NAT. RES. CODE ANN. (Vernon Supp.). If Grantee constructs improvements other than those authorized in Article VI., such improvements shall constitute illegal structures and Grantor may, at its option, terminate this Agreement or pursue a remedy under Section 51.302, et seq., TEX. NAT. RES. CODE ANN. (Vernon Supp.).

ARTICLE VII. Construction by Grantee

7.01. Except as provided in Article VI hereof, Grantee shall make no alterations, additions or changes in the Premises without the prior written consent of Grantor.

7.02. Prior to termination of the Easement, unless otherwise directed by Grantor, in writing, Grantee will demolish or remove all or any portion of the Improvements then existing on the Premises, remove all debris resulting from such demolition, and leave the ground theretofore occupied by such Improvements in a safe, clean condition, all such work to be done as promptly and expeditiously as is reasonably possible.

7.03. If Grantee fails to comply with the foregoing, Grantor shall have the right to perform the aforesaid requested work, in which event Grantee shall be liable to Grantor for all cost, loss and damage incurred by Grantor in connection therewith.

ARTICLE VIII. Repair and Maintenance

8.01. Grantor shall have no duty to repair, maintain, or replace the Premises or Improvements placed at or constituting any portion of the Premises. Grantor will not be liable for any damage or injury, fatal or nonfatal, resulting from any damage, defect, or disrepair of any Improvements.

8.02. All damage to Improvements will be repaired and all maintenance thereon will be performed and replacements and renewals thereof will be made at Grantee's cost and expense. Grantee shall be responsible for the removal and disposal of all trash at the Premises (whether or not such trash is generated by Grantee or its customers and invitees).

8.03. If Grantor considers necessary any repairs, maintenance, renewals or replacements pursuant to this Easement, Grantor may request that Grantee make such repairs, maintenance, renewal, or replacements. Upon Grantee's failure or refusal to do so, (and in case of an emergency), Grantor may make such repair, maintenance, renewal, or replacement, with Grantee hereby waiving any claim for damage caused thereby. **GRANTEE IS LIABLE FOR THE COST THEREBY INCURRED BY GRANTOR.** Any failure of Grantee to make such payment to Grantor may be treated by Grantor as a default by Grantee in the payment of Rent required to be paid by Grantee hereunder. Grantee authorizes

Grantor (the term Grantor in this clause includes Grantor's commissioners, officers, managers, or agents expressly designated in writing) to remove and discard the pier or structure if (a) the permit or easement has terminated or (b) if the pier or structure has been abandoned or neglected such that in Grantor's sole discretion, removal and discard should occur. However, nothing in this Easement creates any duty requiring Grantor to remove or discard the pier or structure, nor the imposition of liability on Grantor for removing or discarding the pier or structure, or Grantor's decision not to remove or discard the pier or structure. Grantee, and/or Grantee's successor or assign, shall be liable for the costs of removal or discarding of the pier or structure.

8.04. Grantor will have a right to enter the Premises at any reasonable time as specified in Sections 6.06 and 6.07 of this Easement (including during Grantee's business hours) to inspect the condition thereof, to make necessary repairs and Improvements, and for other lawful purposes.

ARTICLE IX. Assignments

9.01. Grantee shall not assign or otherwise dispose of an interest in this Easement or the Premises without the express prior written consent of Grantor, and any attempt to assign or otherwise dispose without consent shall be void and of no effect. In the event of any such attempted assignment or disposition, Grantor may terminate this Easement effective upon fifteen (15) day's notice to Grantee. This prohibition against assigning or disposition shall be construed to include a prohibition against any assignment or disposition by operation of law.

9.02. If this Easement is assigned or if an interest in this Easement or the Premises is disposed of, Grantor may nevertheless collect rent from the assignee and apply the next amount collected to the Rent payable hereunder. No such transaction or collection of rent shall be deemed a waiver of these provisions or a release of Grantee from the further performance by Grantee of its covenants, duties and obligations hereunder.

ARTICLE X. Utilities

10.01. Grantee shall, at its own cost and expense, pay all charges for delivery and use of water, sanitary sewer, electricity, gas and all other utilities used on the Premises throughout the term of this Easement, including any connection charges, **AND SHALL SAVE AND HOLD GRANTOR HARMLESS FROM ANY CHARGE OR LIABILITY FOR SAME.** All such charges are to be paid by Grantee directly to the utility company or municipality furnishing the same before the same shall become delinquent.

10.02. No interruption or malfunction of any utility service shall constitute an eviction or disturbance of Grantee's use and possession of the Premises or a breach by Grantor of any of its obligations hereunder or render Grantor liable for

any damages (including, without limitation, consequential or special damages) or entitle Grantee to be relieved from any obligations hereunder or grant Grantee any right of set-off or recoupment.

ARTICLE XI. Indemnity

11.01. TO THE EXTENT ALLOWED BY LAW, GRANTEE SHALL BE FULLY LIABLE AND RESPONSIBLE FOR ANY INJURIES OR DAMAGE, OF ANY NATURE, ARISING FROM GRANTEE'S USE OF PREMISES OR FROM ANY BREACH OF THE TERMS, COVENANTS, OR CONDITIONS CONTAINED HEREIN, AND SHALL INDEMNIFY AND HOLD THE CLCND, ITS OFFICERS, EMPLOYEES, AND AGENTS HARMLESS FROM AND AGAINST CLAIMS, SUIT, COSTS, LIABILITY, OR DAMAGES OF ANY KIND WHICH MAY ARISE FROM OR OUT OF GRANTEE'S USE OF THE PREMISES EXCEPT FOR THE CONSEQUENCES OF NEGLIGENT ACTS OR WILLFUL MISCONDUCT OF THE CLCND, ITS OFFICERS, EMPLOYEES, OR AGENTS ARISING FROM OR ATTENDANT TO GRANTEE'S USE OF THE PREMISES.

ARTICLE XII. Damages or Destruction of Premises

12.01. Subject to termination, as described in this section, no damage to the Premises or damage to or destruction of any Improvements shall in any way alter, affect or modify Grantee's obligations hereunder, including specifically Grantee's obligations to pay Rent, Taxes and other financial obligations hereunder. In the event of any damage to the Premises which will exceed the cost of One Thousand and No/100 Dollars (\$ 1,000.00) per event to repair, Grantee shall give written notice to Grantor within seven (7) calendar days of the damage or destruction, including a description of the damage and, as far as known to Grantee, the cause of the damage. Grantee shall immediately remove all debris resulting from such damage or destruction and take such action as is necessary to place the Premises in a neat, safe condition. Within ninety (90) days after the event causing the damage or destruction, Grantee must either repair or replace the Improvements of, if permitted by law, or return the Premises to their natural condition. Grantee's failure to satisfy its obligations in this regard is an Event of Default hereunder. Grantor may make repairs or replacements pursuant to this section, whereupon Grantee shall be liable to pay Grantor, upon demand, the cost and expense incurred by Grantor in accomplishing such action. Any failure by Grantee to make such payment to Grantor may be treated by Grantor as default in the payment of Rent due and owing by Grantee hereunder.

ARTICLE XIII. Condemnation

13.01. In the event of a condemnation proceeding that affects all or part of the Premises, Grantor will have the exclusive authority to negotiate with the condemning authority. In the event of (i) a total condemnation, this Easement shall terminate, and (ii) a partial condemnation, Grantor may decide whether or

not to terminate this Easement, but if Grantor elects to continue the Easement, the Rent will be proportionately reduced. All condemnation proceeds shall be payable to Grantor.

ARTICLE XIV. Encumbrance of Easement Interest

14.01. Grantee may not mortgage, hypothecate, encumber or grant any deed of trust or mortgage covering the interest created under this Easement or any interest therein or any Improvements thereon, nor may Grantee collaterally assign any rent or other income.

ARTICLE XV. Default

15.01. Each of the following acts or omissions of Grantee or occurrences shall constitute an "Event of Default"

- (a) failure or refusal by Grantee to timely pay Rent or any other sum when due hereunder;
- (b) failure or refusal by Grantee to comply with the obligations of Grantee set forth in Article VI of this Easement;
- (c) failure or refusal by Grantee to timely perform or observe any other covenant, duty or obligation of Grantee under this Easement; provided, however, notwithstanding the occurrence of such Event of Default, Grantor shall not be entitled to exercise any of the remedies provided for in this Easement or by law unless such Event of Default continues beyond the expiration of thirty (30) days following notice to Grantee of such Event of Default;
- (d) abandonment or vacating of the Premises or any significant portion thereof;
- (e) the entry of an order of liquidation, reorganization or adjustment of debts in bankruptcy or similar order affecting Grantee; and
- (f) the entry of a court order requiring the dissolution, winding up, or termination of Grantee's business affairs.

15.02. This Easement and the term and estate hereby granted and the demise hereby made are subject to the limitation that if and whenever any Event of Default shall occur, after such notice, if any, as is provided in Section 16.01, Grantor may, at its option, in addition to all other rights and remedies provided hereunder or in law or equity, do any one or more of the following:

- (a) forfeit this Easement by sending written notice of such forfeiture by United States Mail to the last known address of Grantee in the files of the CLCND, in which event, this Easement shall terminate and Grantee shall immediately surrender possession of the premises to Grantor (and termination shall not prejudice the rights of Grantor for any claim of payments due);
- (b) enter upon and take possession of the Premises and expel or remove Grantee and any other occupant
- (c) alter locks and other security devices, if any, at the Premises.

15.03. Exercise by Grantor of any one or more remedies hereunder granted or otherwise available shall not (i) be deemed a waiver by Grantor of any other remedy available to it, or (ii) be deemed to be an acceptance of surrender of the Premises by Grantee, whether by agreement or by operation of law.

15.04. In the event of termination of this Easement or of Grantee's right to possession of the Premises or repossession of the Premises for an Event of Default, Grantor shall not have any obligation to seek a new use for the Premises, or any portion thereof, or to collect rental for a new use (if any); Grantor shall have the option to seek a new use for the Premises, and in the event of a new use, Grantor may grant an easement across or otherwise dispose of an interest in the whole or any portion of the Premises for any period, to a different grantee, and for any use and purpose.

ARTICLE XVI. Notice

16.01. Any notice which may or shall be given under the terms of this Easement shall be in writing and shall be either delivered by hand or sent by United States Registered or Certified Mail, adequate postage prepaid, if for Grantor to the CLCND Office, General Manager, P.O. Box 518, 211 Miller Street, Anahuac, Texas 77514, and if for Grantee, to it at _____. Either party's address may be changed from time to time by such party by giving notice as provided above, except that the Premises may not be used by Grantee as the sole notice address.

ARTICLE XVII. Non-Waiver

17.01. Neither acceptance of Rent or any other sums payable by Grantee hereunder or any portion of either, nor failure by Grantor to complain of any action, non-action or default of Grantee shall constitute a waiver as to any breach of any covenant or condition of Grantee contained herein nor a waiver of any of Grantor's right hereunder.

ARTICLE XVIII. Holdover

18.01 If Grantee holds over and continues in possession of the Premises after expiration of the term of this Easement, Grantee will be deemed to be occupying the Premises on the basis of a month-to-month tenancy subject to all of the terms and conditions of this Easement, except that as liquidated damages by reason of such holding over, the amounts payable by Grantee under this Easement shall be increased such that the Rent and other sums payable hereunder shall equal two hundred percent (200%) of the amount(s) payable immediately prior to Grantee's holdover.

18.02. The above-described tenancy from month-to-month may be terminated by either party upon thirty (30) days written notice to the other.

ARTICLE XIX. Terminology and Miscellaneous

19.01. With respect to terminology in this Easement, each number (singular or plural) shall include all numbers, and each gender (male, female or neuter) shall include all genders. If any provision of this Easement shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of the Easement, but such other provisions shall continue in full force and effect.

19.02. The titles of the Articles in this Easement shall have no effect and shall neither limit nor amplify the provisions of the Easement itself. This Easement shall be binding upon and shall accrue to the benefit of Grantor, its successors and assigns, Grantee, its successors and assigns (or heirs, executors, administrators and assigns, as the case may be).

19.03. In any circumstances where Grantor is permitted to enter upon the Premises during the Easement term, whether for the purpose of curing any default of Grantee, repairing damages resulting from fire or other casualty or an eminent domain taking or is otherwise permitted hereunder or by law to go upon the Premises, no such entry shall constitute an eviction or disturbance of Grantee's use and possession of the Premises. Such entry shall not constitute (i) a breach by Grantor of any of its obligations hereunder; (ii) render Grantor liable for damages for loss of business or otherwise; (iii) entitle Grantee to be relieved from any of its obligations hereunder or; (iv) grant Grantee any right of offset or recoupment or other remedy. In connection with any such entry incident to performance of repairs, replacements, maintenance, or construction, all of the aforesaid provisions shall be applicable notwithstanding that Grantor may elect to take building materials in, to, or upon the Premises that may be required or utilized in connection with such entry by Grantor.

19.04. Time is of the essence of this Easement.

19.05. The obligation of Grantee to pay all Rent and other sums hereunder provided to be paid by Grantee and the obligation of Grantee to perform Grantee's other covenants and duties hereunder constitute independent, unconditional obligations to be performed at all times provided for hereunder.

19.06. Under no circumstances shall Grantor ever be liable hereunder for consequential damages or special damages.

19.07. All monetary obligations of Grantee are performable exclusively in Anahuac, Chambers County, Texas.

19.08. Grantee hereby acknowledges that late payment by Grantee to Grantor or Rent or any other sums due under this Easement will cause Grantor to incur various expenses not contemplated by this Easement, the exact amount of which are presently difficult to ascertain. Accordingly, if any payment of Rent, or any other sum due from Grantee under this Easement shall not be received by Grantor when due then, in addition to such required payment, Grantee shall also pay to Grantor a "Late Charge" equal to ten cents (\$.10) for each One Dollar (\$1.00) so past due. Grantor and Grantee agree that such Late Charge represents a fair and reasonable estimate of the expenses that Grantor will incur by reason of such late payment by Grantee. Acceptance of such Late Charge by Grantor shall not constitute a waiver of Grantee's default with respect to any such past due amounts, nor prevent Grantor from exercising any other rights and remedies granted to Grantor under this Easement or at law or in equity. Such Late Charge shall constitute additional rental payable by Grantee under this Easement and is in addition to, and separate, from the Rent and other charges payable under this Easement by Grantee.

ARTICLE XX. Grantee's Bankruptcy

20.01. Grantor and Grantee agree that if Grantee ever becomes the subject of a voluntary or involuntary bankruptcy or other similar type of proceeding under the Federal Bankruptcy Laws, then "adequate protection" of Grantor's interest in the Premises pursuant to the provisions of Sections 361 and 363 of the U.S. Bankruptcy Code prior to assumption and/or assignment of the Easement by Grantee shall include, but not be limited to the following: (a) The continued payment by Grantee of all Rent and all other sums due and owing under this Easement; and (b) the furnishing of a security deposit by Grantee in the amount of three (3) times the Rent payable during the immediately preceding Easement Year. Further, in that circumstance, Grantor and Grantee agree that "adequate assurance of future performance" by Grantee and/or any assignee of Grantee pursuant to U.S. Bankruptcy Code Section 365 (or its successor section) will include (but not be limited to) payment of a security deposit in the amount of three (3) times the Rent paid during the immediately preceding Easement Year.

20.02. If this Easement is assigned to any person or entity pursuant to the provisions of the U.S. Bankruptcy Code, any and all monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Grantor, shall be and remain the exclusive property of Grantor and shall not constitute property of Grantee or the Estate of Grantee within the meaning of the U.S. Bankruptcy Code. Any and all monies or other considerations constituting Grantor's property under the preceding sentence not paid or delivered to Grantor shall be held in trust by Grantee for the benefit of Grantor and shall be promptly paid to or turned over to Grantor.

ARTICLE XXI. Reservation from Easement

21.01. To the extent not previously conveyed, Grantor reserves unto itself, its successors and assigns all right, title, and interest in and to all oil, gas, and other minerals in, on, or under the Premises.

ARTICLE XXII. Other Agreements and Permitting

22.01 Piers and Other Grantor Real Property Agreements. Grantee agrees and acknowledges that this Easement may be subject to other agreements regarding Grantor's submerged lands, including leases or other real property agreements over such property. Such leases include, but are not limited to the following, in place at the time of the execution of this Agreement: a) Coastal Surface Lease No. 001-09SL between CLCND and the Texas Parks and Wildlife Department, executed in May 2009. As such, Grantee shall exercise appropriate care in the construction and maintenance activities for piers to avoid impairment to other uses of such submerged properties. Grantee agrees and acknowledges that it is solely responsible for any damages to the submerged properties or to uses on such properties (including, but not limited to, impacts to oyster operations).

- i) 22.02. Additional Permitting and Requirements. Grantee agrees and acknowledges that it is solely responsible for any additional permitting or compliance required for its pier, including, but not limited to requirements of the U.S. Army Corps of Engineers, the General Land Office of Texas, the Texas Parks & Wildlife Department, the Texas Health Department, the Texas Department of State Health Services, and/or any other local, state, or federal agency with jurisdiction, as applicable.

ARTICLE XXIII. Entire Agreement

23.01. This Agreement, Coastal Easement No. _____, plus exhibits constitutes the entire agreement between Grantor and Grantee; no prior written

or prior or contemporaneous oral promises or representations shall be binding. The submission of this Easement for examination by Grantee and/or execution thereof by Grantee does not constitute a reservation of or option for the Premises and this Easement shall become effective only upon execution of all parties hereto and the deliverance of a fully executed counterpart hereof by Grantor to Grantee. This Easement shall not be amended, changed or extended except by written instrument signed by both parties hereto.

ARTICLE XXIV. Rights Reserved

24.01 Grantee acknowledges Grantor's ownership of the Easement area. Grantor reserves all rights to the property not inconsistent with the easement or that do not unreasonably interfere with the easement purpose.

GRANTOR:

THE CHAMBERS-LIBERTY COUNTIES NAVIGATION DISTRICT

By: _____
(Signature)

_____ Title: _____
(Printed Name)

ACKNOWLEDGEMENT

STATE OF TEXAS]

COUNTY OF _____]

This instrument was acknowledged before me on the ____ day of _____, _____, by _____, _____ of the Chambers-Liberty Counties Navigation District.

Notary Public, State of Texas
My commission expires: _____

GRANTEE:

By: _____
(Signature)

_____ (Printed Name)

ACKNOWLEDGMENT

STATE OF _____]

COUNTY OF _____]

This instrument was acknowledged before my on this _____ day of _____, _____, by _____.

Notary Public, State of Texas
My Commission expires: _____