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

FORM 10-K

(Mark One)

☒ **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the fiscal year ended May 31, 2005

or

☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period from _____ to _____

Commission File No. 1-15461

MATRIX SERVICE COMPANY
(Exact name of registrant as specified in its charter)

Delaware	**73-1352174**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
10701 East Ute Street Tulsa, Oklahoma	**74116**
(Address of Principal Executive Offices)	**(Zip Code)**

Registrant's telephone number, including area code: (918) 838-8822

Securities Registered Pursuant to Section 12(b) of the Act: None
Securities Registered Pursuant to Section 12(g) of the Act:

Common Stock, par value $0.01 per share
Preferred Share Purchase Rights
(Title of class)

Name of Each Exchange On Which Registered: NASDAQ National Market (Common Stock)

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

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

The aggregate market value of the registrant's common stock held by non-affiliates computed by reference to the price at which the common stock was last sold as of the last business day of the registrant's most recently completed second quarter was approximately $109,259,750.

The number of shares of the registrant's common stock outstanding as of August 12, 2005 was 17,413,526 shares.

Documents Incorporated by Reference

Certain sections of the registrant's definitive proxy statement relating to the registrant's 2005 annual meeting of stockholders, which definitive proxy statement will be filed within 120 days of the end of the registrant's fiscal year, are incorporated by reference into Part III of this Form 10-K.

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PART I

Item 1. Business

FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements, other than statements of historical facts, included in this Annual Report which address activities, events or developments which we expect, believe or anticipate will or may occur in the future are forward-looking statements. The words “believes,” “intends,” “expects,” “anticipates,” “projects,” “estimates,” “predicts” and similar expressions are also intended to identify forward-looking statements.

These forward-looking statements include, among others, such things as:

- our ability to generate sufficient cash from operations or to raise cash in order to meet our short- and long-term capital requirements;
- our ability to comply with the financial covenants in our credit agreement;
- amounts and nature of future revenues from our construction and repair and maintenance segments;
- the impact of restructuring events currently being executed;
- the likely impact of new or existing regulations on the demand for our services; and
- expansion and other development trends of the industries we serve.

These statements are based on certain assumptions and analyses we made in light of our experience and our perception of historical trends, current conditions and expected future developments as well as other factors we believe are appropriate in the circumstances. However, whether actual results and developments will conform with our expectations and predictions is subject to a number of risks and uncertainties which could cause actual results to differ materially from our expectations, including:

- the risk factors discussed in this Annual Report and listed from time to time in our filings with the Securities and Exchange Commission;
- general economic, market or business conditions;
- changes in laws or regulations; and
- other factors, most of which are beyond our control.

Consequently, all of the forward-looking statements made in this Annual Report are qualified by these cautionary statements and there can be no assurance that the actual results or developments anticipated by us will be realized or, even if substantially realized, that they will have the expected consequences to or effects on us or our business or operations. We assume no obligation to update publicly any such forward-looking statements, whether as a result of new information, future events or otherwise.

BACKGROUND

We provide construction services in addition to repair and maintenance services primarily to the downstream petroleum and power industries. We also provide these services to other industries including liquefied natural gas (LNG), wastewater, food and beverage and pulp and paper industries.

As a full service industrial contractor, we strive to provide all of our clients the highest degree of safety, quality and service utilizing our qualified professionals, technical expertise, skilled craftsmen, and overall project management.

We are headquartered in Tulsa, Oklahoma, with regional operating facilities located in California, Delaware, Illinois, Michigan, Oklahoma, Pennsylvania, Texas and Washington in the U.S. and Ontario in Canada. We were incorporated in the State of Delaware in 1989. Our principal executive offices are located at 10701 East Ute Street, Tulsa, Oklahoma 74116. Our telephone number is (918) 838-8822 and our fax number is (918) 838-8810. Unless the context otherwise requires, all references herein to “Matrix Service”, “Matrix Service Company”, the “Company” or to “we”, “our” and “us”, are to Matrix Service and its subsidiaries including The Hake Group of Companies since the date of acquisition on March 7, 2003.

To serve clients efficiently and effectively, Matrix Service operates regional offices throughout the U.S. and in Canada. We have separate union and non-union subsidiary companies; therefore, we can provide our services to customers’ who require services to be performed on either a union or non-union basis.

We are organized into two reportable segments – Construction Services and Repair and Maintenance Services. See Note 18 – Segment Information in the Notes to Consolidated Financial Statements for segment and geographic information.

We also provide services where our two business segments combine to provide a combination of services to our customers. Customers use these services to expand their operations, improve operating efficiencies and to comply with stringent environmental and safety regulations.

Our Construction Services include turnkey projects, renovations, upgrades, and expansions for large and small projects. We routinely perform civil and concrete, electrical and instrumentation, mechanical, piping and equipment installations, and tank engineering, design, fabrication and erection, as well as steel, steel plate, vessel and pipe fabrication.

Our Repair and Maintenance Services include outages and turnarounds, plant maintenance, electrical and instrumentation maintenance, tank inspection, repair and maintenance, industrial cleaning, and American Society of Mechanical Engineers (ASME) code repairs.

WEBSITE ACCESS TO REPORTS

Our public internet site is www.matrixservice.com. We make available free of charge through our internet site, via a link to Edgar Online, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission.

In addition, we currently make available on www.matrixservice.com our annual reports to stockholders. You will need to have the Adobe Acrobat Reader software on your computer to view these documents, which are in the .PDF format. If you do not have Adobe Acrobat, a link to Adobe Systems Incorporated’s internet site, from which you can download the software, is provided.

CONSTRUCTION SERVICES

Our Construction Services include turnkey construction, civil construction, structural steel erection, mechanical installation, process piping, electrical and instrumentation, fabrication, vessel and boiler erection, millwrighting, plant modifications, centerline turbine erection, and startup and commissioning. In addition, we offer design, engineering, fabrication and construction of aboveground storage tanks.

Safety, quality, and a commitment to customer satisfaction are the hallmarks of construction services at Matrix Service. As part of every project, we focus on innovative approaches that exceed our customers’ expectations, and can save them time and money. Our experience in completing projects both large and small has made us a leading provider for the downstream petroleum, power, and other industries that include the LNG, wastewater, food and beverage and paper industries.

We operate fabrication facilities on the East Coast, Midwest region, and West Coast to support our project requirements. Our fabrication facility in Oklahoma specializes in steel plate and vessel fabrication. The 160,000 sq. ft. facility is located on the most inland port in the United States with barging, rail, and trucking capabilities. The Oklahoma facility has the capacity to fabricate new tanks, new tank components and all maintenance,

retrofit and repair parts including fixed roofs, floating roofs, seal assemblies, shell plate and tank appurtenances. The Oklahoma facility also provides customized steel plate and pipe fabrication directly to customers for their erection. This facility is qualified to perform services on equipment that requires ASME Code Stamps. This fabrication includes ASME pressure vessels, stacks, ducting, heat exchangers, flare stacks and igniter tips. Fabrication materials include carbon steels, stainless steels and specialty alloy materials.

In California, we own land, buildings and the equipment used in the fabrication of tank components and all maintenance, retrofit and repair parts including fixed roofs, floating roofs and seals, in addition to steel plate and pipe fabrication. The California facility is located close to the petroleum refining and petrochemical industry, which supplies the large population centers of the Western United States.

In Pennsylvania, we own and operate a pipe and pressure vessel fabrication facility. The Pennsylvania facility is ASME approved and U.A. labeled with “PP”, “R” and “U” stamps. Many exotic metals can be fabricated in this facility, which supports our project work as well as providing outside fabrication pipe and pressure vessels for our customers.

In addition, Matrix Service has the support structure necessary to manage and execute both small and large, complex projects within strict scheduling and budgetary constraints. Our in-house estimating, scheduling and cost control capabilities are designed to ensure timely and cost-effective execution of the work we undertake. Advanced information technology capabilities allow our project managers to oversee and control projects by accessing project data from any location or job site.

Construction Services Market Overview – Downstream Petroleum

Our construction experience for the downstream petroleum market includes refineries, pipelines, terminals, petrochemical plants, gas facilities and bulk storage facilities. This includes turnkey construction projects, renovations, upgrades, and expansions for large and small projects. We have many long-term relationships with our customers and much of our work is repeat business with these customers.

The downstream petroleum market continues to be strong. A focal point of this market is the refining industry and there are currently 149 refineries in the U.S. The total refining capacity of these refineries in 2004 was approximately 16.8 million barrels a day, which is not meeting the current and forecasted needs. While it is not expected that any new refineries will be built in the U.S. in the near future, it is anticipated that many existing refineries will focus on expanding and refurbishing their facilities to increase production. Several major refining companies have committed to significant capital expenditures in the coming years to help meet environmental requirements and to expand production.

Clean fuels initiatives continue to cause an increase in capital spending as refineries look for new efficient, cost-effective ways to comply with governmental regulations. Over the last several years, the Environmental Protection Agency (EPA) issued rules that require the sulfur content of diesel fuel to be reduced to 500 parts per million (ppm) with a lower 15-ppm requirement effective June 2006. In addition, refiners must produce low sulfur diesel products for off-road vehicles by 2010. Matrix Service saw some opportunities during fiscal 2005 relating to compliance with clean fuel initiatives, which resulted in projects for our construction services business segment. These projects involved the construction of new process units, modifications to existing units, extensive piping, structural steel, and equipment installations. We are still seeing inquiries related to clean diesel fuel at various refineries throughout the U.S. and expect more construction opportunities in the future.

Pipeline and terminal companies are also expanding existing facilities and constructing new terminals. We have provided turnkey construction services for bulk storage terminals, rail terminals, aviation fueling facilities and marine dock facilities. In addition, we have extensive experience upgrading, expanding, and completing retrofits at terminals and bulk storage facilities all across the U.S. We expect continued interest in our tank and terminal construction capabilities throughout the coming fiscal year.

A large portion of our terminal construction work involves tank construction, which is a cornerstone of our business. Our tank construction services often incorporate engineering, design, fabrication, and shop and/or field erection. In addition Matrix Service designs, fabricates and field erects new refrigerated and cryogenic liquefied gas storage tanks for the storage of ammonia, butane, carbon dioxide, ethane, methane, argon, nitrogen, oxygen, propane and other products. These tanks are utilized by the chemical, petrochemical and gas industries.

Construction Services Market Overview – Power

We are currently pursuing two types of opportunities for the electric power industry. Environmental upgrades to existing plants provide the most immediate area of opportunity for potential construction revenue. On March 5, 2005, the EPA issued the Clean Air Interstate Rule (CAIR), which provided the Federal framework to reduce power plant emissions in 28 states and the District of Columbia. We expect by 2010, power plants with generating capacity of approximately 23,900 megawatts will need to install Selective Catalytic Reduction (SCR) equipment for nitrous oxide (NOX) control. By 2015, power plants with a generating capacity of an additional 26,600 megawatts will also have to install SCR equipment for NOX control. The CAIR regulations also mandate reduction in sulfur dioxide (SO2) emissions from coal-fired power plants. SO2 removal is accomplished by the installation of Flue Gas Desulphurization (FGD) equipment. By 2010, power plants with a generating capacity of approximately 39,600 megawatts will have to install or upgrade FGD equipment. By 2015, power plants with an additional generating capacity of approximately 32,400 megawatts will also have to install or upgrade FGD equipment. A single megawatt of power generally supplies electricity for approximately 1,000 homes for a one-year period.

In addition to the opportunity that exists in the fabrication, erection and general construction services related to the installation of SCR and FGD systems, there are additional opportunities in coal fired power plant flue gas mercury reduction. On March 15, 2005, the EPA issued the Clean Air Mercury Rule (CAMR) establishing mercury limits for coal-fired flue gas that take effect in stages beginning in 2010, with full implementation by 2018. Under current technology, the most effective mercury removal from flue gas is by injection of an activated carbon catalyst and then downstream removal by a fabric filter bag house. Since modern coal-fired power plants generate revenue from the sale of flue gas fly ash, most of the planned mercury removal installations will involve the addition of a second bag house located downstream of the existing fly ash removal equipment. This will be necessary since the injection of the activated carbon results in the fly ash no longer being suitable for sale. We believe we are well positioned to provide fabrication, erection and general construction services as these mercury removal injection and capture systems are installed.

The EPA estimates that compliance with both the CAIR and the CAMR rules will cost the power industry in excess of $50 billion. We expect that increasing demand for companies to fabricate, erect and install the vessels associated with both NOX and mercury removal will result in increasingly higher margins than we are currently experiencing as fabrication facilities develop larger backlogs of work.

In addition to federally mandated environmental upgrades, the Company is pursuing opportunities that exist in the completion of partially built power plants. The economic condition of the power industry in the last months of 2001 and throughout 2002 resulted in approximately 30,000 megawatts worth of power plants that were under construction to be mothballed while only partially built. A small group of companies has emerged that specialize in the acquisition of these partially completed assets with the goal of completing the plant and either selling the generating capacity or the completed plant. All of these projects will require construction services. The Company has the expertise, skill and experience level to assist these developers in completing the projects to a point that electric power can be produced and sold.

As the upward pressure on natural gas prices continues, the power industry is once again looking at coal-fired power plant development as well as the development of gas-fired generation using gasified coal, and there is significant activity in the LNG market. All three of these “alternative” energy sources provide opportunities for the Company to provide fabrication, erection and general construction services.

Construction Services Market Overview – Other Industries

There has been a strong resurgence in LNG receiving terminal construction after years of dormancy. The strong demand for clean burning natural gas, resulting in part from the large build up of gas fired power plants and generally flat to declining domestic production of natural gas, has created an increased demand for LNG. This has created a strong demand for the construction of large LNG tanks, LNG receiving terminals and peak shaving plants. Matrix Service is involved in the engineering and construction of these LNG tanks. There are currently five LNG receiving terminals operating in the United States, nine terminals newly permitted by FERC and two terminals permitted by the Coast Guard. There are twelve receiving terminals proposed for FERC approval and eight proposed for Coast Guard approval.

In addition to the LNG market, Matrix Service provides construction services to the food and beverage, water/wastewater, pulp and paper, heavy technologies, and the metals and mining industries. While recently these opportunities have not been a significant portion of our revenue, we do have substantial experience providing turnkey construction, plant expansions, retrofits, and modernizations. We continue to monitor these industries and seek opportunities where we can offer our clients a safe, quality project.

REPAIR AND MAINTENANCE SERVICES

We provide a wide range of routine, preventative and emergency repair and maintenance services. We recognize that being proactive is the key, whether scheduling regular routine maintenance or planning an emergency response to an unexpected facility or equipment problem. We provide multiple services that allow our clients to select needed services from a single source instead of multiple contractors. Our primary services include refining and petrochemical turnarounds, facility/plant outages, facility maintenance, tank inspection, repair and maintenance, industrial cleaning and ASME code repairs. We provide these services for entire plants and facilities as well as single units or tanks. These services range in duration from short term to ongoing multiple year contracts.

Turnarounds, outages and shutdowns constitute a core part of our business. Delivering all services on time, within budget and schedule constraints, and most importantly, without safety incidents, is our standard. Projects are completed by in-house project managers and superintendents who are supported by qualified, skilled craftsmen in every discipline, utilizing the latest equipment.

Our tank repair and maintenance services are also a key component of our core business. We are one of the largest tank repair and maintenance contractors in the United States with a solid reputation for quality, safety, and reliability. Our personnel are well versed in API Standards and ASME code work in both atmospheric and pressure storage vessels. We also provide environmentally friendly solutions for secondary containment and leak detection. Our product offering includes dikes and liners, internal floating roofs, tank double bottoms, primary and secondary seals. Every product we offer is expertly designed and engineered to provide our customers with the highest quality.

Matrix Service offers inspection services in concert with our full range of tank engineering, design, fabrication, erection, repair, maintenance and cleaning work, providing our clients with turnkey services.

Many of our repair and maintenance services are performed for clients on a national alliance basis. We have built these relationships on years of trust, open communication and a mutual desire to complete projects safely with a high degree of quality.

Repair and Maintenance Services Market Overview – Downstream Petroleum

One of our primary service lines in Repair and Maintenance is refinery maintenance and turnarounds. We are seeing an increase in repair and maintenance project opportunities, due in part to the increased number of terminals and bulk storage facilities, many of which are being built to protect refiners from the price volatility of crude oil. The number of planned unit turnarounds is estimated to increase by 12% during the Fall of 2005 as compared to the Fall of 2004. According to Industrial Information Resources, there are currently 272 unit maintenance turnarounds planned for the last four months of 2005 compared to only 243 that occurred during the same period last year. A major portion of the turnaround activity will take place in approximately 40 crude units, 44 reformers and 15 fluid catalytic cracking units across all of North America. This is a direct result of the oil companies improved cash flows as a result of higher commodity prices and refining margins. While routine maintenance activities are a continuous part of every refinery, many of these facilities are now spending additional monies for major maintenance. Our expertise and reputation as a quality turnaround contractor positions us well to take advantage of the additional work. Tank repair and maintenance is also one of the cornerstones of our business and continues to be a significant portion of our repair and maintenance revenue.

Repair and Maintenance Services Market Overview – Power

Matrix Service also provides repair, maintenance, and outage services for the power industry. Our onsite maintenance services include routine maintenance that includes cleaning fans and changing out lube oil coolers, maintenance of gas turbines, heat recovery steam generators (HRSGs) and other plant equipment. We also provide turbine disassembly, inspection and repair assistance.

We provide a wide variety of outage services for the power industry for scheduled outages as well as emergency situations that may arise. In addition to providing standard services which include planning and scheduling; tower and vessel repair and installation; fin fan retube and repair; boiler retube and repair; valve installation; carbon steel and alloy pipe fabrication and repair and ASME code work, Matrix Service provides electrical maintenance for nuclear and fossil fuel power plants.

Repair and Maintenance Services Market Overview – Other Industries

We provide repair and maintenance services for other industries, including water/wastewater tank repair and maintenance, infrastructure maintenance for the pulp and paper industry, and tank and equipment repairs for the food and beverage industry; as well as emergency response for these industries. Tank repair and maintenance continues to be a focal point for other industries, and specifically the LNG market. As the construction of LNG terminals increases, we expect to see an increase in the need for repair and maintenance of these facilities. Building on our longstanding reputation as a quality repair and maintenance contractor, we look forward to generating additional revenue from these opportunities.

OTHER BUSINESS MATTERS

Customers and Marketing

Matrix Service derives a significant portion of its revenues from performing construction and repair and maintenance services for major integrated oil and power companies. Matrix Service also performs services for independent petroleum refining and marketing companies, architectural and engineering firms, the food industry, general contractors and several major petrochemical companies. We had approximately 500 customers during fiscal 2005. In fiscal 2005, one customer accounted for 11% of our consolidated revenues, 14% of our Repair and Maintenance Services' revenues and 7% of our Construction Services' revenues. Another customer represented 10% of our consolidated revenue and 15% of our Repair and Maintenance Services' revenues. The loss of either of these major customers could have a material adverse effect on the Company.

Matrix Service markets its services and products primarily through its marketing and business development personnel, senior professional staff and its operating management. The marketing personnel concentrate on developing new customers and assist management and staff with existing customers. We enjoy many preferred provider relationships with customers that award us work without competitive bidding through long-term agreements. In addition, we competitively bid many projects. Repair and Maintenance Services' projects normally have a duration of one week to several months depending on work scope, while Construction Services' projects typically range in duration from one week to three years.

Competition

Matrix Service competes with a large number of regional construction and maintenance companies and a number of national construction and maintenance companies in both the Construction Services and Repair and Maintenance Services segments. Competitors generally vary with the markets we serve with no competitors competing in all of the markets we serve or for all of the services that we provide. Competitors generally compete on a union shop or on a merit shop basis only. Contracts are generally awarded based on price, customer satisfaction, safety record and programs, quality and schedule compliance. We believe that our turnkey capability, expertise, experience and reputation for providing safe and timely quality services allow us to compete effectively.

Backlog

At May 31, 2005, the Construction Services segment had an estimated backlog of work under contracts of approximately $201 million, as compared with an estimated backlog of approximately $86 million as of May 31, 2004. The increase resulted primarily from the signing of the $97 million LNG project. The remainder of the increase is due to an overall increase in activity associated with the Downstream Petroleum market. The estimated backlog at May 31, 2005 and 2004 for the Repair and Maintenance Services segment was approximately $15 million, at each date respectively.

Other than the LNG project, virtually all of the projects comprising our backlog are expected to be completed within fiscal year 2006. Because many of our contracts are performed within short time periods after receipt of an order and as backlog amounts exclude signed time and materials contracts, we do not believe that our level of backlog at the end of any given period is a precise indicator of our future revenues, especially for our Repair and Maintenance Services segment.

Seasonality

The operating results of the Repair and Maintenance Services segment may be subject to significant quarterly fluctuations, affected primarily by the timing of planned maintenance projects at customers' facilities. As a result, our quarterly operating results can fluctuate materially. In addition, the Construction Services segment typically has a lower level of operating activity during the winter months and early into the new calendar year as many of our customers' capital budgets have not been finalized and demand for storage fluctuates with demand for product.

Raw Material Sources and Availability

Steel and steel pipe are the primary raw materials used by our Construction Services and Repair and Maintenance Services segments. Supplies of these materials are available throughout the United States from numerous sources. We do not anticipate being unable to obtain adequate amounts of these materials in the foreseeable future. However, the availability and pricing of these materials could change significantly due to various factors, including producer capacity, the level of foreign imports, demand for the materials, tariffs on imported steel and other market conditions.

Insurance

The Company maintains workers' compensation employer's liability insurance, with statutory limits; general liability insurance and auto liability insurance in the primary amount of $1.0 million per occurrence; contractor's pollution liability insurance in the amount of $10.0 million per occurrence; and pollution legal liability for owned and leased properties in the amount of $2.0 million per occurrence. The Company has deductibles or self-insured retentions in the amount of $10,000 for damage to owned or leased properties; $0 for workers' compensation, $100,000 for general liability, $0 for auto liability, $50,000 for contractor's pollution liability and $25,000 for pollution legal liability. Matrix Service also maintains an umbrella policy with coverage limits of $25.0 million per project, policies to cover our equipment and other property with coverage limits of $10.0 million per occurrence, and policies for construction with coverage limits of $16.0 million per project. Most policies provide for coverage on an occurrence basis rather than a "claims made" basis. Matrix maintains a performance and payment bonding line of $5.0 million. If we are unable to provide performance bonds for our projects, we may have less success in obtaining new work.

Many of our contracts require us to indemnify our customers for injury, damage or loss arising from the performance of our services and provide for warranties of materials and workmanship. Matrix Service generally requires its subcontractors to defend and indemnify Matrix Service and name Matrix Service and our customer as additional insured parties for any loss or alleged loss arising out of the subcontractor's activities. There can be no assurance that our insurance and the additional insurance coverage provided by our subcontractors will protect us against a valid claim of loss under the contracts with our customers.

Employees

As of May 31, 2005, we had 3,313 employees of which 376 were employed in non-field positions and 2,937 were employed in field or shop positions. 1,284 of the 2,937 field or shop employees were represented by unions under collective bargaining agreements. We operate under collective bargaining agreements with various unions representing different groups of our employees. These agreements provide the union employees with benefits including health and welfare plans, pension plans, training programs and compensation plans. We have not experienced any significant strikes or work stoppages.

Patents and Proprietary Technology

Matrix Service holds a number of United States patents and one United Kingdom patent under the Flex-A-Span ® trademark which covers a peripheral seal for floating roof tank covers. One of our U.S. patents covers our ThermoStor ® diffuser system that receives, stores and dispenses both chilled and warm water in and from the same storage tank. The ThermoStor ® patent expires in March 2010. We also have patented the RS 1000 Tank Mixer ® which controls sludge build-up in crude oil tanks through resuspension. The RS 1000 Tank Mixer ® patent expires in August 2012. We have a patent on our Flex-A-Swivel ®, a swivel joint for floating roof drain systems. This United States Patent expires in March 2016. We also hold a United States patent that expires in June 2008 under the Flex-A-Seal ® trademark, which covers a seal for floating tank covers.

Matrix Service holds a United States patent which covers a flexible fluid containment system marketed as the Valve Shield ®. The Valve Shield ® captures and contains fluid leaking from pipe and valve connections. The Valve Shield ® patent expires in December 2017. We also hold two patents in the United States and numerous foreign countries covering a perimeter seal for internal aluminum floating roofs and a full contact floating roof. The United States patents expire in May 2013 and May 2015, respectively. Both the Construction Services and Repair and Maintenance Services segments utilize these patents; and while we believe that the protection of our patents is important to our business, we do not believe that these patents are essential to our success.

Regulation

Various environmental protection laws have been enacted and amended during the past 30 years in response to public concern over the environment. Our operations and the operations of our customers are subject to these evolving laws and the related regulations, which are enforced by the EPA and various other federal, state and local environmental, safety and health agencies. We believe that our current operations are in material compliance with such laws and regulations; however, there can be no assurance that significant costs and liabilities will not be incurred due to increasingly stringent environmental restrictions and limitations. Historically, however, the cost of measures taken to comply with these laws has not had a material adverse effect on the financial condition of Matrix Service. In fact, the proliferation of such laws has led to an increase in the demand for some of our products and services. A discussion of the principal environmental laws affecting Matrix Service and its customers is set forth below.

Air Emissions Requirements

The EPA and many state governments have adopted legislation and regulations subjecting many owners and operators of storage vessels and tanks to strict emission standards. The regulations prohibit the storage of certain volatile organic liquids (VOLs) in open-top tanks and require tanks which store VOLs to be equipped with primary and/or secondary roof seals mounted under a fixed or floating roof. Related regulations also impose continuing seal inspection and agency notification requirements on tank owners and prescribe certain seal requirements. Under the latest EPA regulations, for example, floating roofs on certain large tanks constructed or modified after July 1984 must be equipped with one of three alternative continuous seals mounted between the inside wall of the tank and the edge of the floating roof. These seals include a foam or liquid-filled seal mounted in contact with the stored petroleum product; a combination of two seals mounted one above the other, the lower of which may be vapor mounted; and a mechanical shoe seal, composed of a metal sheet held vertically against the inside wall of the tank by springs and connected by braces to the floating roof. The EPA has imposed similar requirements, which are now effective or will be after completion of various phase-in periods on certain large tanks, regardless of the date of construction, operated by companies in industries such as petroleum refining and synthetic organic chemical manufacturing, which are subject to regulations controlling hazardous air pollutant emissions. The EPA is in the process of developing further regulations regarding seals and floating roofs.

Amendments to the federal Clean Air Act adopted in 1990 require, among other things, that refineries produce cleaner burning fuel for use in U.S. motor vehicles. Included in these regulations are specifications for the amount of sulfur present in motor gasoline and diesel fuel. By mid-2006, most gasoline and on-road diesel fuel sold in the United States must meet these stringent requirements. Furthermore, off-road diesel fuel specifications must meet strict new sulfur requirements by 2010. In order to meet these specifications, U.S. refiners will need to expend substantial capital for upgrades and new equipment.

Another element of the Clean Air Act Amendments of 1990 is the need for refiners to produce reformulated gasoline (Tier 2 gasoline) for many areas of the country where volatile organic compounds exceed prescribed limits. Many U.S. refiners elected to meet these specifications by blending the chemical Methyl Tertiary Butyl Ether (MTBE) with gasoline. Over the past few years, many states throughout the country have found that MTBE is contaminating groundwater and is possibly toxic. A few of these states, California and New York among them, have outlawed the use of MTBE and have substituted ethanol in its place. Ethanol is a chemical derived from celulosic material, primarily corn. The production of ethanol from corn has been around for many years and has been used to augment motor vehicle fuel, primarily in the Midwestern section of the U.S. If the number of states outlawing the use of MTBE increases, the production of ethanol will need to increase. In addition, existing fuel distribution facilities will need to be modified since the blending requirements for ethanol are different than those for MTBE. Both of these areas are a core strength of Matrix Service and should provide substantial business opportunities.

As part of the Clean Air Act Amendments of 1990, Congress required the EPA to promulgate regulations to prevent accidental releases of air pollutants and to minimize the consequences of any release. The EPA adopted regulations requiring Risk Management Plans (RMPs) from companies, which analyze and limit risks associated with the release of certain hazardous air pollutants. In addition, the EPA requires companies to make RMPs available to the public. Many petroleum related facilities, including refineries, will be subject to the regulations and may be expected to upgrade facilities to reduce the risks of accidental releases. Accordingly, the Company believes that the promulgation of accidental release regulations could have a positive impact on its business.

In March 2005, the EPA issued the Clean Air Interstate Rule (CAIR), which provided the federal framework to reduce power plant emissions in 28 states and the District of Columbia. We believe that approximately 100 power plants will need to install Selective Catalytic Reduction (SCR) equipment for nitrous oxide (NOX) control over the next ten years to comply with CAIR. The CAIR also mandates reduction in sulfur dioxide (S02) emissions from coal-fired power plants. As a result, we expect that approximately 140 power plants will have to install or upgrade Flue Gas Desulphurization (FGD) equipment by 2015.

Water Protection Regulations

Protection of groundwater and other water resources from spills and leakage of hydrocarbons and hazardous substances from storage tanks and pipelines has become a subject of increasing legislative and regulatory attention, including releases from above-ground storage tanks (ASTs). Under Federal Water Pollution Control Act regulations, owners of most ASTs are required to prepare spill prevention, control and countermeasure (“SPCC”) plans detailing steps that have been taken to prevent and respond to spills and to provide secondary containment for the AST to prevent contamination of soil and groundwater. These plans are also subject to review by the EPA, which has authority to inspect covered ASTs to determine compliance with SPCC requirements. Various states have also enacted groundwater legislation that has materially affected owners and operators of petroleum storage tanks. The adoption of such laws has prompted many companies to install double bottoms on their storage tanks to lessen the chance that their facilities will discharge or release regulated chemicals. State statutes regarding protection of water resources have also induced many petroleum companies to excavate product pipelines located in or near marketing terminals, to elevate the pipelines aboveground and to install leak detection systems under the pipelines. These laws and regulations have generally led to an increase in the demand for some of the Company’s products and services.

In the event hydrocarbons are spilled or leaked into groundwater or surface water from an AST that the Company has constructed or repaired, the Company could be subject to legal proceedings involving such spill or leak. To date, the Company has not suffered a material loss resulting from such legal proceedings.

Hazardous Waste Regulations

The Resource Conservation and Recovery Act of 1976 (RCRA) provides a comprehensive framework for the regulation of generators and transporters of hazardous waste, as well as persons engaged in the treatment, storage and disposal of hazardous waste. Under state and federal regulations, many generators of hazardous waste are required to comply with a number of requirements, including the identification of such wastes, strict labeling and storage standards and preparation of a manifest before the waste is shipped off site. Moreover, facilities that treat, store or dispose of hazardous waste must obtain a RCRA permit from the EPA, or equivalent state agency, and must comply with certain operating, financial responsibility and site closure requirements.

In 1990, the EPA issued its Toxicity Characteristic Leaching Procedure (TCLP) regulations. Under the TCLP regulations, which have been amended from time to time, wastes containing prescribed levels of any one of several identified substances, including organic materials found in refinery wastes and waste-waters (such as benzene), will be characterized as “hazardous” for RCRA purposes. As a result, some owners and operators of facilities that produce hazardous wastes are being required to make modifications to their facilities or operations in order to remain outside the regulatory framework or to come into compliance with the regulatory requirements. Many petroleum refining, production, transportation and marketing facilities are choosing to replace existing surface impoundments with storage tanks and to equip certain of the remaining impoundments with secondary containment systems and double liners. Accordingly, the Company believes that the promulgation of the TCLP regulations will continue to have a positive impact on its tank construction and modification business.

Amendments to RCRA require the EPA to promulgate regulations banning the land disposal of hazardous wastes, unless the wastes meet certain treatment standards or the particular land disposal method meets certain waste containment criteria. Regulations governing disposal of wastes identified as hazardous under the TCLP, for example, could require water drained from the bottom of many petroleum storage tanks to be piped from the tanks to a separate facility for treatment prior to disposal. Because the TCLP regulations can, therefore, provide an incentive for owners of petroleum storage tanks to reduce the amount of water seepage in the tanks, the Company believes that the regulations have and will continue to positively influence sales of its Flex-A-Seal® roof seals, which materially reduce the amount of water seepage into tanks.

CERCLA

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), also known as “Superfund”, authorizes the EPA to identify and clean up sites contaminated with hazardous substances and to recover the costs of such activities, as well as damages to natural resources from certain classes of persons specified as liable under the statute. Such persons include the owner or operator of a site and companies that disposed or arranged for the disposal of hazardous substances at a site. Under CERCLA, private parties, which incurred remedial costs, may also seek recovery from statutorily responsible persons. Liabilities imposed by CERCLA can be joint and several where multiple parties are involved. Many states have adopted their own statutes and regulations to govern investigation and cleanup of, and liability for, sites contaminated with hazardous substances or petroleum products.

Although the liabilities imposed by RCRA, CERCLA, and other environmental legislation are more directly related to the activities of the Company’s clients, they could, under certain circumstances, give rise to liability on the part of the Company if the Company’s efforts in completing client assignments were considered arrangements related to the transport or disposal of hazardous substances belonging to such clients. In the opinion of management, however, it is unlikely that the Company’s activities will result in any liability under either CERCLA or other environmental regulations in an amount, which would have a material adverse effect on the Company’s operations or financial condition, and management is not aware of any current liability of the Company based on such a theory.

Oil Pollution Act

The Oil Pollution Act of 1990 (OPA) established a new liability and compensation scheme for oil spills from onshore and offshore facilities. Section 4113 of the OPA directed the President to conduct a study to determine whether liners or other secondary means of containment should be used to prevent leaking or to aid in leak detection at onshore facilities used for storage of oil. The Company believes that its business may be positively affected by any regulations eventually promulgated by the EPA that required liners and/or secondary containment to minimize leakage from ASTs. While regulations have not, to date, been enacted, the industry designs secondary containment in all new tanks being built and, in general, secondary containment is installed in existing tanks when they are taken out of service for other reasons in anticipation of these regulations.

Health and Safety Regulations

The operations of the Company are subject to the requirements of the Occupational Safety and Health Act (OSHA) and comparable state laws. Regulations promulgated under OSHA by the Department of Labor require employers of persons in the refining and petrochemical industries, including independent contractors, to implement work practices, medical surveillance systems and personnel protection programs in order to protect employees from workplace hazards and exposure to hazardous chemicals. In recognition of the potential for catastrophic accidents within refining and petrochemical facilities, OSHA has enacted very strict and comprehensive safety regulations. Regulations such as OSHA's Process Safety Management (PSM) standard require facility owners and their contractors to ensure that their employees are adequately trained regarding safe work practices and informed of known potential hazards. The Company has established comprehensive programs for complying with health and safety regulations. While the Company believes that it operates safely and prudently, there can be no assurance that accidents will not occur or that the Company will not incur substantial liability in connection with the operation of its business.

The State of California has promulgated particularly stringent laws and regulations regarding health and safety and environmental protection. The Company's operations in California are subject to strict oversight under these laws and regulations and the failure to comply with these laws and regulations could have a negative impact on the Company.

Environmental

Matrix Service is a participant in certain environmental activities in various stages involving assessment studies, cleanup operations and/or remedial processes.

In connection with our sale of Brown and affiliated entities in 1999, environmental assessments identified a number of deficiencies relating to storm water permitting, air permitting, asbestos, soil and water contamination and waste handling and disposal. Appropriate State of Georgia agencies were notified and corrective actions initiated.

Matrix Service has fabrication operations in Oklahoma, Pennsylvania and California, which could subject the Company to environmental liability. It is unknown at this time if any such liability exists but based on the types of fabrication and other manufacturing activities performed at these facilities and the environmental monitoring that we undertake, Matrix Service does not believe it has any material environmental liabilities at these locations. Matrix Service has purchased pollution liability insurance with $2.0 million of coverage per occurrence.

Matrix Service builds ASTs and performs maintenance and repairs on existing ASTs. A defect in the manufacturing of new tanks or faulty repair and maintenance on an existing tank could result in an environmental liability if the product stored in the tank leaked and contaminated the environment. Matrix Service currently has liability insurance with pollution coverage of $10.0 million, but the amount could be insufficient to cover a major claim.

RISK FACTORS

The nature of our business activities and operations subjects us to a number of risks and uncertainties. If any of the events described below were to occur, they could have a material adverse effect on our business, financial condition and operating results.

Adverse events have negatively affected our liquidity position.

Our liquidity consists primarily of cash from operations and advances under our revolving credit facility. We cannot assure you that we will have sufficient cash from operations or the credit capacity to meet all of our cash needs if we continue to encounter significant working capital requirements, including the requirement to carry our costs included in uncollected accounts receivable, contract dispute receivables, claims for increased costs caused by others, unapproved change orders and costs incurred in excess of contract billings.

Insufficient cash from operations and insufficient earnings from operations have in the past and could in the future result in our failure to comply with the terms of our credit agreement. Primarily as a result of cost overruns on certain projects, lower than expected revenues in our Construction Services segment and lower cash from operations resulting from non-payment of contract dispute receivables, and claims against customers, we have failed to comply with certain of the financial covenants contained in our credit agreement. We obtained, at substantial cost, waivers from our lenders with respect to our non-compliance with specified covenants.

On April 22, 2005, we completed a private placement of $30.0 million of 7.0% convertible notes due 2010. The proceeds to us, which were net of fees and prepaid interest for two years, were approximately $24.6 million. We used $20.0 million of the net proceeds to repay Term Note B under our credit facility, which included an escalating interest rate and was bearing interest of 18% at the time of its repayment on April 25, 2005. The remaining net proceeds were used to provide additional liquidity for working capital needs.

As of May 31, 2005, our credit facility consists of a $35 million revolver, a $22.4 million term loan and a $10 million revolving loan B.

Availability under the revolver is limited to the lesser of $35 million or 80% of the borrowing base, which is based on eligible accounts receivable. At May 31, 2005, $20.3 million was outstanding under the revolver and $10.0 million of the revolver was utilized by outstanding letters of credit, which automatically renew annually. At that date, remaining availability under the revolver was $4.7 million and we were paying a weighted average interest rate of 8.5% on the revolver. Availability under the revolver was $10.6 million as of August 12, 2005.

Under our term loan, principal payments of $1.2 million are due on the last day of each fiscal quarter, with the remaining principal due on March 31, 2008, the date on which the term loan matures. At May 31, 2005, we were paying a weighted average interest rate of 8.5% on our $22.4 million term loan. As of August 12, 2005, we were paying a weighted average interest rate of 10.5% on the term loan, which had an outstanding principal balance of $20.3 million.

The $10 million revolving loan B commitment was established in amendment nine and extended in amendment ten to our credit agreement on April 22, 2005 and August 10, 2005, respectively. The revolving loan B commitment bears cash interest at prime, expires on June 30, 2006 and is secured by various contract dispute receivables. Availability under the commitment is limited to $10 million less an amount equal to the value of all of our outstanding checks. The revolving loan B commitment will be further reduced by an amount equal to any funds collected with respect to “large disputed accounts,” and the net proceeds from the sale of any of our equity securities or certain assets. The revolving loan B commitment may also be reduced at the sole discretion of the lenders. Availability under our revolver Loan B was $7.7 million at both May 31, 2005 and August 12, 2005.

Our credit agreement requires us to make mandatory prepayments in certain circumstances including upon the sale of certain assets in excess of $250,000, the sale of stock or the issuance of subordinated indebtedness, or in the event that we generate “excess cash”, incur a borrowing base deficiency or collect contract dispute receivables.

Amendment Ten to our credit agreement modified the required financial covenants. Under Amendment Ten, we are required to maintain minimum levels of "augmented consolidated EBITDA" for various quarterly test periods through May 31, 2006 as of designated quarterly test dates. The starting point for the augmented consolidated EBITDA is "consolidated EBITDA", which is defined to include "consolidated net income," plus, to the extent deducted in determining consolidated net income, (i) consolidated interest expense (ii) expense for taxes paid or accrued, (iii) depreciation and amortization, (iv) up to $3,000,000 in the aggregate of the following: (A) (1) specifically defined professional and consulting fees (2) other expenses related to the reorganization of Borrower's fabrication operation, (3) lease termination cost arising from the termination of leases occurring as a part of and during the restructure, and (4) costs and expenses related to the search for a replacement Chief Executive Officer but only to the extent paid or incurred on or before November 30, 2005; (B) severance payments and retention bonuses associated with restructuring; (C) legal fees and legal expenses incurred with regard to the enforcement and collection of the large disputed accounts; (D) losses on sales of fixed assets approved by the lenders and incurred prior to November 30, 2005; and (E) losses arising from the settlement of large disputed accounts minus, to the extent included in consolidated net income, (i) gains on sales of fixed assets, (ii) extraordinary gains realized other than in the ordinary course of business, and (iii) income tax benefits. The minimum level of augmented consolidated EBITDA for each quarterly test period is as follows:

Test Periods	Minimum Augmented Consolidated EBITDA	Test Date
June 1, 2005 through August 31, 2005	$ 4,135,000	September 30, 2005
June 1, 2005 through November 30, 2005	$ 7,493,000	December 31, 2005
June 1, 2005 through February 28, 2006	$ 10,651,000	March 31, 2006
June 1, 2005 through May 31, 2006	$ 15,302,000	June 30, 2006

For purposes of determining compliance with this covenant, "consolidated EBITDA" is increased by an amount equal to the lesser of (i) $3,000,000 or (ii) the sum of the following: (A) if one or more sales of assets approved by the lenders has occurred, then the aggregate for all such sales of the following: the amount, if any, by which (1) an amount equal to the Borrowing Base immediately after the closing of such sale minus the aggregate principal balance of the Revolving Loans measured immediately after the application of such proceeds exceeds; (2) an amount equal to the Borrowing Base immediately prior to the closing of such sales minus the aggregate principal balance of the Revolving Loans measured immediately prior to the application of such proceeds; (B) federal and state tax refunds received during such period less the amount of any taxes paid; (C) reimbursements received during such period from customers for capital expenditures associated with the LNG project to the extent that, during the same period, such capital expenditures actually occurred; and (D) cash proceeds received during such period from the sale of any common stock, preferred stock, warrant or other equity (other than the exercise of stock options by employees, officers and directors) approved by the lenders and from the issuance of any subordinated indebtedness approved by the lenders.

Amendment Ten also requires us to maintain a minimum fixed charge coverage ratio of augmented consolidated EBITDA for the fiscal year to date minus cash dividends and distributions made or paid during the period to scheduled current maturities of the term loan for the fiscal year to date, plus scheduled current maturities of the Hake Group acquisition payable for the fiscal year to date, plus consolidated interest expense for the year to date (excluding amounts included in consolidated interest expense for (1) amortization of deferred financing fees (2) amortization of prepaid interest related to the subordinated debt, (3) accretion related to The Hake Group acquisition payable, and (4) interest attributable to the additional accrued margin that is neither paid for nor due and payable during the fiscal year to date, plus current maturities on capitalized leases for the fiscal year to date and capital expenditures paid during such fiscal year to such date. The ratio at each quarterly measurement date shall be less than 1.00.

Amendment Ten also requires us to maintain a minimum debt service coverage ratio of consolidated EBITDA for the fiscal year to date minus cash dividends and distributions during the period to scheduled current maturities of the term loan for the fiscal year to date, plus scheduled current maturities of the Hake Group acquisition payable for the fiscal year to date, plus consolidated interest expense for the year to date (excluding amounts described above), plus current maturities on capitalized leases for the fiscal year to date. The required debt service coverage ratio is 1.43 for the period ended August 31, 2005, 1.65 for the period ending November 30, 2005, 1.65 for the period ending February 28, 2006 and 1.38 for the period ending May 31, 2006.

Amendment Ten provides that borrowings under the revolver and the term loan shall bear prime-based interest plus a margin. The agreement further provides for an additional accrued margin that is paid upon termination of the facility. The amendment provides for cash pay interest at a rate of prime plus 1.0% and accrued interest at at 1.0% beginning April 2005 and escalating fifty basis points monthly until December 31, 2005 at which time the accrued margin is 5.0%. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers and the term loan. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31. 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. We were paying a weighted average interest rate of 8.50% on the term loan and the revolver at May 31, 2005.

On August 10, 2005, the lenders executed a waiver which modified the required covenants at May 31, 2005 to require (i) Consolidated EBITDA (as defined) to be greater than or equal to $2,596,000 and (ii) a Fixed Charge Coverage Ratio (as defined) to be greater than or equal to 0.925.

The following table presents the required and actual financial covenant measures in effect as of May 31, 2005:

Fixed Charge Ratio	
Minimum Ratio Required	0.925
Actual Ratio	0.966
Excess / (Shortfall)	0.041
EBITDA (in thousands)	
Minimum EBITDA Required	$ 2,596
Actual EBITDA	2,903
Excess / (Shortfall)	$ 307

The credit agreement also limits our capital expenditures to $9 million annually, limits unsecured indebtedness we may borrow for general operating purposes to $1 million, limits capital lease obligations to $15 million and limits the amount of letters of credit we may have outstanding to $15 million.

In March 2005, the Company initiated a restructuring program to reduce its cost structure and improve its operating results. The Company focused on its core strengths and identified those areas with the objective of eliminating unprofitable and marginal work. As a result of this effort, Matrix sold the transportation and rigging assets and has executed a letter of intent to sell the aluminum floating roof business. Matrix is also in the process of selling excess facilities or land in Tulsa, Oklahoma; Orange, California; and Holmes, Pennsylvania. These liquidity events, coupled with various tax refunds is expected to yield approximately $12.0 million in cash, which will be used to improve liquidity. Matrix also ceased to work on a number of large routine maintenance contracts that were utilizing valuable resources while providing minimal returns. As these maintenance contracts were reduced, there was a significant reduction of overhead and administration costs. As a result of these efforts and other efforts to reduce costs, Matrix was able to reduce its annual administrative payroll and benefit costs by more than $5.0 million.

Although our credit agreement provides us with sufficient liquidity for the upcoming fiscal year, the revolving loan B and the $35 million revolver expire on June 30, 2006. While we are currently working to obtain a new credit facility, we cannot assure you that our efforts will be successful. In addition, the failure to comply with the terms of our credit agreement has required us to incur significant fees to our lenders to obtain waivers and amendments and caused us to seek alternative financing. Without acceptable waiver or amendments from our lenders with respect to any future covenant violations or alternative financing on terms acceptable to us, our lenders would have the right, among others, to declare all amounts outstanding under the credit agreement to be immediately due and payable and foreclose upon and sell substantially all of our assets to repay such amounts.

Insufficient liquidity could have other important consequences to us. For example, we could:

- have reduced operating flexibility, such as in the levels of workforce we can maintain or by being required to use subcontractors to perform work that could otherwise be performed by us;

- be required to divert a substantial portion of our cash flow away from operations to the repayment of debt and the interest associated with that debt, particularly in the event of significant increases in interest rates as a substantial amount of our debt is at floating rates;
- be required to delay bidding for or accepting new projects;
- lose the services of skilled craftsmen and other experienced professionals if we are unable to retain them on our payroll during periods of idle time;
- be restricted in our ability to bid for new work that would require significant up-front expenditures for mobilization, equipment and raw materials; and
- experience difficulty in financing future acquisitions and/or continuing operations.

In addition, insufficient liquidity has recently and could in the future require us to negotiate extended payment terms with our vendors. To date, this has not materially affected our relationships with key vendors. However, if we are required to negotiate extended payment terms, we cannot assure you that we will not experience difficulty in ordering and obtaining equipment and raw materials from our vendors.

All or any of these consequences could place us at a disadvantage as compared with competitors with greater liquidity. This could have a negative impact upon our financial condition and results of operations.

The interest rate on our existing indebtedness will increase if we are unable to refinance our revolving credit facility. We may be unable to refinance or repay our credit facility prior to or upon its maturity.

Pursuant to amendment ten to our credit agreement, all borrowings under our credit facility, other than revolving loan B, currently accrue interest at a base rate plus an “applicable margin” and an “additional accrued margin.” The additional accrued margin was 1.00% for the period April 22, 2005 through April 30, 2005, increased to 1.50% for the period May 1, 2005 through May 31, 2005, and will increase 0.50% on the first day of each month until December 31, 2005. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31. 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. The term loan bears cash pay and accrued interest at the same rates. We were paying a weighted average interest rate of 8.50% on the term loan and the revolver at May 31, 2005. Interest at the prime rate and the applicable margin is payable monthly in cash and interest at the additional accrued margin is accrued monthly and is payable in cash at the time of payment of the principal amount of the applicable loan. In addition, if we fail to refinance our credit facility prior to September 30, 2005, additional interest of 5.00% per annum will accrue and be added to the principal balance of our convertible notes beginning October 1, 2005 and until our credit facility is refinanced.

We may be unable to refinance our credit facility in the next fiscal year or at all. If we are unable to refinance our credit facility in the next few months, we may find it increasingly difficult or impossible to refinance our increasing debt burden. Moreover, the failure to refinance our credit facility on or before June 30, 2006 would constitute an event of default under the convertibles notes, which would allow the convertible note investors to require us to redeem the convertible notes for an amount which may exceed the outstanding principal amount plus all accrued and unpaid interest thereon. If we are not able to refinance our credit facility on or before its expiration, we could become subject to bankruptcy proceedings, and holders of our common stock may lose all of their investment because the claims of our secured creditors on our assets would be senior to the claims of the purchasers of our common stock. Moreover, even if we are successful in refinancing our credit facility, any future senior indebtedness could be at higher interest rates and may require us to comply with more onerous covenants which could further restrict our business operations.

If we fail to comply with our obligations under a registration rights agreement among us and the holders of our convertible notes, we may be required to pay additional interest on the convertible notes. Our failure to comply with our obligations under the registration rights agreement may also constitute an event of default under the convertible notes.

In connection with the private placement of the convertible notes, on April 22, 2005, we entered into a registration rights agreement with the investors in the convertible notes. The registration rights agreement requires us to use our best efforts to keep our registration statement, covering the resale of the shares of our common stock issuable upon conversion of the convertible notes, continuously effective until the earlier of (a) the date on which all of our common stock covered by such registration statement has been sold or may be sold without volume restrictions pursuant to Rule 144(k) under the Securities Act of 1933, as amended, or "Securities Act," or (b) the fifth anniversary of the closing date. Although the Registration Statement was declared effective by the SEC on June 17, 2005, if we fail to satisfy our obligations under the registration rights agreement, we will owe the holders of the convertible notes as partial liquidated damages an amount in cash equal to 1% of the aggregate amount paid for the convertible notes for each such event, and thereafter on each monthly anniversary of each such event (if the applicable failure shall not have been cured by such date) until the applicable failure is cured, we will owe the note holders an amount in cash equal to an additional 1% of the aggregate amount paid for the convertible notes.

Moreover, the convertible notes provide that an event of default will occur if the registration statement does not remain available for use by the holders of convertible notes for in excess of an aggregate of 20 "trading days" (which need not be consecutive) in any 18-month period during the "effectiveness period." The occurrence of an event of default would entitle the holders of the convertible notes to require us to redeem the convertible notes for an amount which may exceed the outstanding principal amount plus all accrued and unpaid interest thereon and would also constitute an event of default under the cross default provisions of our credit agreement.

Our earnings for fiscal year 2005 were negatively impacted by impairment charges. Earnings for the future periods may be further affected by additional impairment charges.

Because we have grown in part through acquisitions, goodwill and other acquired intangible assets represent a substantial portion of our assets. We perform an annual goodwill impairment review in the fourth quarter of every fiscal year. In addition, we perform a goodwill impairment review whenever events or changes in circumstances indicate the carrying value may not be recoverable, such as the liquidity issues and operating results we are currently experiencing.

As a result, we performed a goodwill impairment test as of February 28, 2005. The process of evaluating the impairment of goodwill is highly subjective and requires significant judgment. Fair value of the reporting units was determined based on the probability-adjusted present value of future cash flows. A preliminary impairment charge of $25.0 million was recorded for our Construction Services segment in the quarter ended February 28, 2005. The cash flow assumptions were based on the best available information, but this information was considered preliminary due to our current liquidity situation and restructuring efforts. The impairment evaluation was completed in the fourth quarter of fiscal 2005, resulting in no additional impairment charge. However at some future date, we may determine that an additional significant impairment has occurred in the value of our unamortized intangible assets or fixed assets, which could require us to write off an additional portion of our assets and could adversely affect our financial condition or results of operations.

We are involved and are likely to continue to be involved in legal proceedings, which will increase our costs and, if adversely determined, could have a material adverse effect on our financial condition and results of operations.

We are and will likely continue to be named as a defendant in legal proceedings claiming damages from us in connection with the operation of our business. Most of the actions against us arise out of the normal course of our performing services on project sites, and include claims for workers' compensation, personal injury and property damage. From time to time we are also named as a defendant in contract disputes with customers relating to the timeliness and quality of the performance of our services and of equipment, materials, design or other services provided by our subcontractors and third-party suppliers. We also are and are likely to continue to be a plaintiff in legal proceedings against customers seeking to recover payment of contractual amounts due to us as well as claims for increased costs incurred by us resulting from, among other things, services performed by us at the request of a customer that are in excess of original project scope that are later disputed by the customer and customer caused delays in our contract performance.

We maintain insurance against operating hazards in amounts that we believe are customary in our industry. However, our insurance has deductibles and exclusions of coverage so we cannot provide assurance that we are adequately insured against all the types of risks that are associated with the conduct of our business. A successful claim brought against us in excess of, or outside of, our insurance coverage could have a material adverse effect on our financial condition and results of operations.

Litigation, regardless of its outcome, is expensive, typically diverts the efforts of our management away from operations for varying periods of time, and can disrupt or otherwise adversely impact our relationships with current or potential customers and suppliers. Payment and claim disputes with customers also cause us to incur increased interest costs resulting from drawing higher levels of debt under our revolving line of credit due to the failure to receive payment for disputed claims and accounts. For the year ended May 31, 2005, legal expenses and interest costs related to litigation with customers for payment of disputed claims and uncollected accounts totaled approximately $5.4 million. We expect to continue to incur legal costs and interest expense until the matters are resolved.

Demand for our products and services is cyclical and is vulnerable to downturns in the industries and markets which we serve as well as conditions in the general economy.

The demand for our products and services depends significantly upon the existence of construction and repair and maintenance projects in the power and downstream petroleum industries in the United States and Canada. These projects may relate to power generation and transmission facilities, petroleum refineries and petroleum and natural gas products storage facilities, terminals and pipelines. Together, these industries accounted for approximately 98%, 97% and 92% of our total revenues for fiscal years ended May 31, 2003, May 31, 2004 and May 31, 2005, respectively. Power industry related revenues accounted for approximately 14% of our total revenues in fiscal year 2005, 52% in fiscal year 2004, and 23% in fiscal year 2003. The significant decrease in power industry revenues is a result of the completion of two large power projects performed during fiscal 2004 that were assumed in connection with our acquisition of the Hake Group, Inc. in March 2003. These projects were not replaced by similar type projects in fiscal 2005.

These markets historically have been, and likely will continue to be, cyclical in nature and vulnerable to general downturns in the United States and Canadian economies, which could adversely affect the demand for our products and services. Occasionally, the timing of the demand for our products and services in certain of these markets, such as power generation facilities and petroleum refineries, can also be adversely affected during periods of strong economic growth as customers may postpone closing their facilities for maintenance, repair, turnaround or expansion projects while demand for their products remains high.

As a consequence of these and other factors, our results of operations have varied and are likely to continue to vary significantly depending on the demand for future projects from these industries.

Our results of operations depend upon the award of new contracts and the timing of those awards.

Our revenues are derived primarily from contracts awarded to us on a project-by-project basis. Generally, it is very difficult to predict whether and when we will be awarded a new contract since each potential contract typically involves a lengthy and complex bidding and selection process that may be affected by a number of factors, including changes in existing or assumed market conditions, financing arrangements, governmental approvals and environmental matters. Because our revenues are derived primarily from these contracts, our results of operations and cash flows can fluctuate materially from period to period depending on the timing of contract awards.

The uncertainty associated with the timing of contract awards also increases our cost of doing business, either over a short period or a comparatively longer term. For example, we may decide to maintain and bear the cost of a workforce in excess of our current contract needs in anticipation of future contract awards. If an expected contract award is delayed or not received, we could incur costs in maintaining an idle workforce that may have a material adverse effect on our results of operations. Or, we may decide that our long term interests are best served by reducing our workforce and incurring increased costs associated with severance and termination benefits which also could have a material adverse effect on our results of operations for the period when incurred.

The terms of our contracts could expose us to absorbing unforeseen costs and costs not within our control, which may not be recoverable and could adversely affect our results of operations and financial condition.

While the percentages may vary from period to period, over the long term, approximately 50% of our revenues have been derived from fixed-price contracts and 50% from cost-plus contracts. We expect this ratio to continue to be maintained at these levels. Under fixed-price contracts, we agree to perform the contract for a fixed-price and, as a result, can realize our expected profit or improve our expected profit by superior contract performance, productivity, worker safety and other factors resulting in costs savings. However, we could incur cost overruns above the approved contract price, which may not be recoverable. Under certain incentive fixed-price contracts, we may agree to share with a customer a portion of any savings we are able to generate while the customer agrees to bear a portion of any increased costs we may incur up to a negotiated ceiling. To the extent costs exceed the negotiated ceiling price, we may be required to absorb some or all of the cost overruns.

Fixed-price contract prices are established based largely upon estimates and assumptions relating to project scope and specifications and personnel and material needs. These estimates and assumptions may prove inaccurate or conditions may change, sometimes due to factors not within our control, resulting in cost overruns we are required to absorb that could have a material adverse effect on our business, financial condition and results of our operations. In addition, our profits from these contracts could decrease and we could experience losses if we incur difficulties in performing the contracts or are unable to secure fixed-pricing commitments from our manufacturers, suppliers and subcontractors at the time we enter into fixed-price contracts with our customers.

Under cost-plus contracts, we perform our services in return for payment of our agreed upon reimbursable costs plus a profit. The profit component is typically expressed in the contract either as a percentage of the reimbursable costs we actually incur or is factored into the rates we charge for labor or for the cost of equipment and materials, if any, we are required to provide. Some cost-plus contracts provide for the customer’s review of the accounting and cost control systems used by us to calculate these labor rates and to verify the accuracy of the reimbursable costs invoiced. These reviews could result in reductions in amounts previously billed to the customer and in an adjustment to amounts previously reported by us as our profit on the contract.

Many of our fixed-price or cost-plus contracts require us to satisfy specified progress milestones or performance standards in order to receive a payment. Under these types of arrangements, we may incur significant costs for labor, equipment and supplies prior to receipt of payment. If the customer fails or refuses to pay us for any reason, there is no assurance we will be able to collect amounts due to us for costs previously incurred. In some cases, we may find it necessary to terminate subcontracts with suppliers engaged by us to assist in performing a contract and we may incur costs or penalties for canceling our commitments to them.

Many of our customers for power generation projects are project-specific entities that do not have significant assets other than their interest in the project. In these cases, we typically obtain a guaranty of the obligations of the project-specific entity from its more creditworthy parent entity. It may be difficult for us to collect amounts owed to us by these customers and their more creditworthy parent entity.

If we are unable to collect amounts owed to us under our contracts, we may be required to record a charge against previously recognized earnings related to the project, and our liquidity, financial condition and results of operations could be adversely affected.

We may encounter difficulties during the course of performing our contracts that may result in additional costs to us and in a reduction in our revenues and earnings that could have an adverse effect upon our financial condition and results of operations.

Many of our construction and repair and maintenance projects are performed over extended periods of time and involve complex design and engineering specifications. In these cases, it is common for us to perform work from time-to-time over the life of the project that is outside the scope of the original contract with the expectation of receiving a signed change order from the customer. Our contracts for these projects also often require us to provide extensive project management and to obtain machinery, equipment, materials and services from third

parties or the customer. We may encounter difficulties in obtaining these products and services on a timely basis. In some cases, these third-party provided products may not perform as expected or the services delivered may not meet contract specifications. These performance failures and other factors, some of which are beyond our control, may result in delays and additional costs to us including, in some cases, the cost of procuring alternate product or service providers, which may adversely impact our ability to complete a project on budget and in accordance with the original delivery schedule. To the extent these and the other matters referred to in the next paragraph occur, we may seek to recover any increased costs incurred by us from the responsible party; however, we cannot assure you that we will be successful in recovering all or a part of these costs in any or all circumstances.

In certain circumstances, we guarantee project completion or the achievement of certain acceptance and performance testing levels by a scheduled date. Failure to meet schedule or performance requirements could result in additional costs to us, including the payment of contractually agreed liquidated damages. The amount of such additional costs could exceed our profit margins on the project. While we may seek to recover these amounts as claims from the supplier, vendor, subcontractor or other third party responsible for the delay or for providing non-conforming products or services, we cannot assure you that we will recover all or any part of these costs in all circumstances. Performance problems for existing and future projects could cause our actual results of operations to differ materially from those anticipated by us and could damage our reputation within our industry and our customer base.

Our use of percentage-of-completion accounting for fixed-price contracts and our reporting of profits for cost-plus contracts prior to contract completion could result in a reduction or elimination of previously reported profits.

A material portion of our revenues are recognized using the percentage-of-completion method of accounting. The percentage-of-completion accounting practices that we use result in our recognizing fixed-price contract revenues and earnings ratably over the contract term in the proportion that our actual costs bear to our estimated contract costs. The earnings or losses recognized on individual fixed-price contracts are based on estimates of contract revenues, costs and profitability. We review our estimates of contract revenues, costs and profitability on an ongoing basis. Prior to contract completion, we may adjust our estimates on one or more occasions as a result of change orders to the original contract, collection disputes with the customer on amounts invoiced or claims against the customer for increased costs incurred by us due to customer-induced delays and other factors.

Contract losses are recognized in the fiscal period when the loss is determined. Contract profit estimates are also adjusted in the fiscal period in which it is determined that an adjustment is required. No restatements are made to prior periods. Further, a number of our contracts contain various cost and performance incentives and penalties that impact the earnings we realize from our contracts, and adjustments related to these incentives and penalties are recorded in the period when estimable or finalized, which is generally during the latter stages of the contract.

As a result of the requirements of the percentage-of-completion method of accounting, the possibility exists, for example, that we could have estimated and reported a profit on a contract over several prior periods and later determined, usually near contract completion, that all or a portion of such previously estimated and reported profits were overstated. If this occurs, the full aggregate amount of the overstatement will be reported for the period in which such determination is made, thereby eliminating all or a portion of any profits from other contracts that would have otherwise been reported in such period or even resulting in a loss being reported for such period.

Our financial loss exposure on cost-plus contracts is generally limited to a portion of our profit on the contract. However, it is possible that the customer could successfully dispute the costs we believe we incurred on the contract or assert that our costs were excessive for reasons such as poor project management or labor productivity. In addition, some cost-plus contracts contain penalty provisions which require us to pay amounts to the customer for failure to achieve certain milestones or performance standards. To the extent we are not able to recover the full amount of our costs under a cost-plus contract, including as a result of payments by us under contract penalty provisions, there would be a reduction, or possibly an elimination, of previously recognized and reported earnings. In certain circumstances it is possible that such adjustments could be material to our operating results.

We may incur significant costs in providing services in excess of original project scope without having an approved change order.

After commencement of a contract, we may perform, without the benefit of an approved change order from the customer, additional services requested by the customer that were not contemplated in our contract price due to a change of mind by the customer or to incomplete or inaccurate engineering, project specifications and other similar information provided to us by the customer. Our construction contracts generally require the customer to compensate us for additional work or expenses incurred under these circumstances.

A failure to obtain adequate compensation for these matters could require us to record in the current period an adjustment to revenue and profit recognized in prior periods under the percentage-of-completion accounting method. Any such adjustments, if substantial, could have a material adverse effect on our results of operations and financial condition, particularly for the period in which such adjustments are made. We cannot assure you that we will be successful in obtaining, through negotiation, arbitration, litigation or otherwise, approved change orders from customers to pay us amounts adequate to compensate us for our additional work or expenses.

Actual results could differ from the estimates and assumptions that we use to prepare our financial statements.

To prepare financial statements in conformity with generally accepted accounting principles, management is required to make estimates and assumptions, as of the date of the financial statements, which affect the reported values of assets, liabilities, revenues and expenses and disclosures of contingent assets and liabilities. Areas requiring significant estimation by our management include:

- contract expenses and profits and application of percentage-of-completion accounting;
- costs and estimated earnings in excess of billings on uncompleted contracts;
- provisions for uncollectible receivables and other collection disputes with customers for invoiced amounts;
- the amount and collectibility of claims against customers, third-party suppliers, subcontractors and others for increased costs incurred by us that were caused by the actions or inactions of these parties, such as increased costs due to delays in their performance or to the failure of machinery, equipment and supplies provided by them to perform to agreed specifications;
- provisions for income taxes and related valuation allowances;
- recoverability of goodwill;
- valuation of assets acquired and liabilities assumed in connection with business combinations; and
- accruals for estimated liabilities, including litigation and insurance reserves.

Our actual results could differ from these estimates.

If we are unable to attract and retain qualified personnel, and in particular, project managers, our ability to manage the performance of our contracts and our business will be harmed, which would impair our future revenues and profitability.

Our ability to attract and retain qualified engineers, skilled craftsmen and other experienced professional personnel in accordance with our needs will be an important factor in determining our future profitability. The market for these professionals is competitive and the supply extremely limited, and we cannot assure you that we will be successful in our efforts to retain these personnel or to attract them when needed. Therefore, when we anticipate or experience growing demand for our services and those of our competitors, we may incur the cost of maintaining a professional staff in excess of our current contract needs in an effort to have available sufficient qualified personnel to address this anticipated demand.

Competent and experienced project managers are especially critical to the profitable performance of our contracts, and in particular, on our fixed-price contracts where superior execution of the contract can result in profits greater than originally estimated or where inferior contract execution can reduce or eliminate estimated profits or even produce a loss. Our project managers are involved in all aspects of contracting and contract performance including, among other things:

- supervising the bidding process, including providing estimates of significant cost components such as material and equipment needs and the size and composition of the workforce;
- negotiating contracts;
- supervising contract performance, including performance by our employees, subcontractors and other third party suppliers and vendors;
- determining the percentage of contract completion that is used by us to estimate amounts that can be reported as revenues and earnings on the contract under the percentage-of-completion method of accounting;
- negotiating requests for change orders and the final terms of an approved change order; and
- determining and documenting claims by us for increased costs incurred due to the failure of customers, subcontractors and other third-party suppliers of equipment and materials to perform on a timely basis and in accordance with contract terms.

Our projects expose us to potential professional liability, product liability, warranty and other claims, which could be expensive, damage our reputation and harm our business. We may not be able to obtain or maintain adequate insurance to cover these claims.

We construct, perform services at and, to a lesser extent, engineer large industrial facilities in which accidents or system failures can be disastrous. Any catastrophic occurrence in excess of our insurance limits at locations engineered or constructed by us or where our products are installed or services performed could result in significant professional liability, product liability, warranty and other claims against us by our customers, including claims for cost overruns and the failure of the project to meet contractually specified milestones or performance standards. Further, the rendering of our services on these projects could expose us to risks to, and claims by, third parties and governmental agencies for personal injuries, property damage and environmental matters, among others. Any claim, regardless of its merit or eventual outcome, could result in substantial costs to us, a substantial diversion of management's attention and adverse publicity, particularly for claims relating to environmental matters where the amount of the claim could be extremely large. Insurance coverage is increasingly expensive. We may not be able to obtain or maintain adequate protection against the types of claims described above. If we are unable to obtain insurance at an acceptable cost or otherwise protect against the claims described above, we will be exposed to significant liabilities, which may materially and adversely affect our financial condition and results of operations.

We are susceptible to adverse weather conditions in our regions of operation, which may harm our business and financial results.

Our business may be adversely affected by severe weather, particularly in the Northeastern, East Coast and Midwest regions of the United States where we have significant operations. Repercussions of severe weather conditions may include:

- curtailment of services;
- suspension of operations;

- weather related damage to our facilities;
- inability to deliver machinery, equipment and materials to jobsites in accordance with contract schedules; and
- loss of productivity.

Work stoppages and other labor problems could adversely affect us.

Some of our employees in the United States are represented by labor unions. A lengthy strike or other work stoppage on any of our projects could have a material adverse effect on our business and results of operations due to an inability to complete contracted projects in a timely manner. From time to time we have also experienced attempts to unionize certain of our non-union employees. While these efforts have achieved only limited success to date, we cannot provide any assurance that we will not experience additional and more successful union activity in the future.

We may incur unexpected liabilities associated with our acquisition of Hake Group, Inc.

In March 2003, we acquired all of the capital stock of Hake Group, Inc. and its subsidiaries. Pursuant to the acquisition agreement, the former stockholders of Hake Group, Inc. indemnified us against certain liabilities related to the ownership and operation of the business prior to our acquisition. A portion of the acquisition purchase price consisted of deferred payments in the aggregate principal amount of $10 million which serve as collateral for certain of the indemnification obligations of the former Hake Group stockholders. The deferred payments are payable in increasing annual installments over five years which, in turn, gradually reduces the amount of collateral remaining to secure any indemnification claims. We cannot assure you that the remaining outstanding principal amount of these notes will be adequate to cover any valid indemnification claims or any exposure related to the indemnified liabilities.

There are integration and consolidation risks associated with our growth strategy. Future acquisitions may also result in significant transaction expenses and risks associated with entering new markets and we may be unable to profitably operate our business.

An aspect of our business strategy is to make strategic acquisitions in markets where we currently operate as well as in markets in which we have not previously operated. We may have difficulties identifying attractive acquisition candidates or we may be unable to acquire desired businesses on economically acceptable terms. Additionally, existing or future competitors may desire to compete with us for acquisition candidates that may have the effect of increasing acquisition costs or reducing the number of suitable acquisition candidates. We may not have the financial resources necessary to consummate any acquisitions or the ability to obtain the necessary funds on satisfactory terms. Any future acquisitions may result in significant transaction expenses and risks associated with entering new markets in addition to the integration and consolidation risks described above. We may not have sufficient management, financial and other resources to integrate future acquisitions. In the event we are unable to complete future strategic acquisitions, we may not grow in accordance with our expectations.

If we make any future acquisitions, we likely will have exposure to third parties for liabilities of the acquired business that may or may not be adequately covered by insurance or by indemnification, if any, from the former owners of the acquired business. Any of these unexpected liabilities could have a material adverse effect on us.

The loss of one or more of our significant customers could adversely affect us.

From time to time due to the size of one or more of our contracts, one or more customers have in the past and may in the future contribute a material portion of our consolidated revenues in any one year. Because these significant customers generally contract with us for specific projects, we may lose these customers from year to year as their projects with us are completed. If we do not replace them with other customers or other projects, our financial condition and results of operations could be materially adversely affected. Additionally, we have long-standing relationships with many significant customers. However, our contracts with these customers are on a project-by-project basis, and these customers may unilaterally reduce or discontinue their use of our services at any time. The loss of business from any one of these customers could have a material adverse effect on our business or results of operations.

Environmental factors and changes in laws and regulations could increase our costs and liabilities.

Our operations are subject to environmental laws and regulations, including those concerning:

- emissions into the air;
- discharges into waterways;
- generation, storage, handling, treatment and disposal of hazardous materials and wastes; and
- health and safety.

Our projects often involve highly regulated materials, including hazardous wastes. Environmental laws and regulations generally impose limitations and standards for regulated materials and require us to obtain permits and comply with various other requirements. The improper characterization, handling, or disposal of regulated materials or any other failure by us to comply with federal, state and local environmental laws and regulations or associated environmental permits could subject us to the assessment of administrative, civil, and criminal penalties, the imposition of investigatory or remedial obligations, or the issuance of injunctions that could restrict or prevent our ability to operate our business and complete contracted projects.

In addition, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), and comparable state laws, we may be required to investigate and remediate regulated materials. CERCLA and these comparable state laws typically impose liability without regard to whether a company knew of or caused the release, and liability for the entire cost of a clean-up can be imposed upon any responsible party.

The environmental, workplace, employment and health and safety laws and regulations, among others, to which we are subject are complex, change frequently and could become more stringent in the future. It is impossible to predict the effect of any future changes to these laws and regulations on us. We cannot assure you that our operations will continue to comply with future laws and regulations or that these laws and regulations and/or a failure to comply with these laws will not significantly adversely affect our business, financial condition and results of operations.

Changes in environmental laws and regulations or a reduced level of enforcement of existing laws and regulations could adversely affect the demand for our services and our results of operations.

Changes in environmental laws and regulations that reduce existing standards and a reduced level of enforcement of these laws and regulations could adversely affect the demand by our customers for many of our services. Proposed changes in regulations and the perception that enforcement of current environmental laws has been less strict has decreased the demand for some of our services, as customers have anticipated and adjusted to the potential changes. Future changes could result in a decreased demand for some of our services. The ultimate impact of any such future changes will depend upon a number of factors, including the overall strength of the economy and customer’s views on whether new or more restrictive regulations will be adopted or whether there will be a relaxing of the requirements and levels of enforcement of existing regulations and the cost-effectiveness of remedies available under changed regulations. If proposed or enacted changes materially reduce demand for our environmental services, our results of operations could be adversely affected.

We face substantial competition in each of our business segments, which may have a material adverse effect on our business by reducing our ability to increase or maintain profitability.

We face competition in all aspects of our business from numerous regional, national and international competitors, many of which have greater financial and other resources than we do. Our competitors include well-established, well-financed concerns, both privately and publicly held, including many major power equipment manufacturers, engineering and construction companies and internal engineering departments at utilities and certain of our customers. The markets that we serve require substantial resources and particularly highly skilled and experienced technical personnel. We believe we compete primarily on the basis of price, customer satisfaction, our safety record and programs, the quality of our products and services and our ability to timely

comply with project schedules. We may encounter increased competition from existing competitors or new market entrants in the future, which could have a material adverse effect on our business, financial condition or results of operations.

Our common stock, which is listed on the Nasdaq National Market, has from time-to-time experienced significant price and volume fluctuations. These fluctuations are likely to continue in the future, and our stockholders may not be able to resell their shares of common stock or other securities whose price is related to that of our common stock at or above the purchase price paid.

The market price of our common stock may change significantly in response to various factors and events beyond our control, including the following:

- the risk factors described in this Annual Report, including the liquidity issues described above;
- a shortfall in operating revenue or net income from that expected by securities analysts and investors;
- changes in securities analysts' estimates of our financial performance or the financial performance of our competitors or companies in our industry generally;
- general conditions in our customers' industries; and
- general conditions in the security markets.

Some companies that have volatile market prices for their securities have been subject to security class action suits filed against them. If a suit were to be filed against us, regardless of the outcome, it could result in substantial costs and a diversion of our management's attention and resources. This could have a material adverse effect on our business, results of operations and financial condition.

Future sales of our common stock may depress our stock price.

Sales of a substantial number of shares of our common stock in the public market or otherwise, either by us, a member of management or a major stockholder, including the holders of our recently issued convertible notes, or the perception that these sales could occur, could depress the market price of our common stock and impair our ability to raise capital through the sale of additional equity securities.

We may issue additional equity securities, which would lead to further dilution of our issued and outstanding stock.

The recent issuance of convertible notes may cause an increase in the number of our shares of common stock outstanding of in excess of 37% of the number of shares currently outstanding. The issuance of additional common stock or securities convertible into our common stock would result in further dilution of the ownership interest in us held by existing stockholders. We are authorized to issue, without stockholder approval, 4,800,000 shares of preferred stock, no par value, in one or more series, which may give other stockholders dividend, conversion, voting, and liquidation rights, among other rights, which may be superior to the rights of holders of our common stock. Our Board of Directors has no present intention of issuing any such preferred stock series, but reserves the right to do so in the future. In addition, we are authorized to issue, without stockholder approval, a significant number of additional shares of our common stock and securities convertible into either common stock or preferred stock.

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Item 2. Properties

The principal properties of Matrix Service at May 31, 2005 were as follows:

Location	Description of Facility	Segment	Interest
Tulsa, Oklahoma (1)	Corporate Headquarters	Corporate	Owned
Alton, Illinois	Regional office and warehouse	Repair & Maintenance	Leased
Baypoint, California	Regional office and warehouse	Repair & Maintenance	Leased
Bellingham, Washington	Regional office and warehouse	Construction and Repair & Maintenance	Owned
Bethlehem, Pennsylvania	Fabrication facility, warehouse and regional office	Construction	Leased
Catoosa, Oklahoma	Fabrication facility, engineering, regional office and warehouse	Construction and Repair &Maintenance	Owned
Eddystone, Pennsylvania	Fabrication facility, regional office and warehouse	Construction and Repair & Maintenance	Leased
Holmes, Pennsylvania (2)	Fabrication facility, regional office and warehouse	Construction and Repair & Maintenance	Owned
Houston, Texas	Regional office and warehouse	Repair & Maintenance	Owned
Newark, Delaware	Regional office and warehouse	Construction and Repair & Maintenance	Leased
Orange, California	Fabrication facility and regional office	Construction and Repair & Maintenance	Owned
Orange, California (1)	Excess Land	Other	Owned
Sarnia, Canada	Regional office and warehouse	Repair & Maintenance	Owned
Temperance, Michigan	Regional office and warehouse	Construction and Repair & Maintenance	Owned
Tulsa, Oklahoma (1)	Fabrication facility, warehouse and office	Other	Owned

(1) Location is held for sale as of May 31, 2005.
(2) Subsequent to May 31, 2005, the Company closed this facility and it is now held for sale.

We also own or lease other facilities strategically located throughout the United States, but these facilities are not considered principal properties. We consider each of our current facilities to be in good operating condition and adequate to meet our current requirements.

Item 3. Legal Proceedings

The information called for by this item is provided in Note 11. Contingencies and Note 12. Contract Disputes, included in the Notes to Consolidated Financial Statements of this report, which is incorporated by reference into this item.

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

None

PART II

Item 5. Market for the Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Price Range of Common Stock

Our common stock has traded on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotation ("NASDAQ") System since our initial public offering on September 26, 1990. The trading symbol for our Common Stock is "MTRX". The following table sets forth the high and low closing sale prices for our Common Stock on the National Market System as reported by NASDAQ for the periods indicated:

	Fiscal Year 2005		Fiscal Year 2004	
	High	Low	High	Low
First Quarter	$12.08	$4.29	$10.40	$ 7.57
Second Quarter	7.52	3.97	15.95	8.68
Third Quarter	8.69	6.19	19.70	11.37
Fourth Quarter	8.40	3.81	15.95	9.40

As of August 12, 2005, there were approximately 53 holders of record of our common stock. We believe that the number of beneficial owners of our common stock is substantially greater than 53.

Dividend Policy

We have never paid cash dividends on our Common Stock. We currently intend to retain earnings to finance the growth and development of our business and do not anticipate paying cash dividends in the foreseeable future. Any payment of cash dividends in the future will depend upon our financial condition, capital requirements and earnings as well as other factors the Board of Directors may deem relevant. Our credit agreement prohibits us from paying cash dividends.

Issuer Purchases of Equity Securities

In October 2000, the Board of Directors authorized a stock buyback program, which permitted the purchase of up to 20% (i.e., 3,447,506 shares) of our common stock outstanding at that time. To date, Matrix Service has purchased 2,116,800 shares under the program and has authorization to purchase an additional 1,330,706 shares.

It is our intent to utilize these purchased treasury shares solely for the satisfaction of stock issuance under the 1990, 1991 and 2004 Stock Option Plans and the 1995 Nonemployee Directors' Stock Option Plan. The following table provides information relating to the Company's repurchase of common stock during the fourth quarter of fiscal 2005.

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares That May Yet Be Purchased Under the Plans or Programs
As of February 28, 2005	—	—	2,116,800	1,330,706
March 1 to March 31, 2005	—	—	—	—
April 1 to April 30, 2005	—	—	—	—
May 1 to May 31, 2005	—	—	—	—
As of May 31, 2005	—	$ —	2,116,800	1,330,706

Item 6. Selected Financial Data

The following table sets forth selected historical financial information for Matrix Service covering the five fiscal years ended May 31, 2005. Certain amounts in the years ended May 31, 2004 and 2003 have been reclassified to conform with the 2005 presentation.

	Fiscal Years Ended May 31,				
	2005	**2004 (3)**	**2003 (2)**	**2002**	**2001**
	(In Millions, Except Percentages And Per Share Data)				
Revenues	**$439.1**	$607.9	$288.4	$222.5	$190.9
Gross profit	**31.0**	46.3	31.6	25.3	22.5
Gross profit %	**7.1%**	7.6%	11.0%	11.4%	11.8%
Operating income (loss) (1)	**(39.1)**	17.5	12.4	9.0	7.5
Operating income (loss) %	**(8.9)%**	2.9%	4.3%	4.0%	3.9%
Pre-tax income (loss)	**(44.5)**	15.2	12.2	9.5	7.1
Net income (loss)	**(38.8)**	9.5	8.2	5.9	4.6
Net income (loss) %	**(8.8)%**	1.6%	2.8%	2.7%	2.4%
Earnings (loss) per share-diluted (3)	**(2.24)**	0.54	0.49	0.36	0.27
Equity per share-outstanding (3)	**2.76**	4.98	4.35	3.83	3.50
Weighted average shares outstanding-diluted (3)	**17.3**	17.6	16.7	16.2	17.0
Working capital	**21.7**	63.9	18.3	25.8	23.8
Total assets	**202.4**	216.3	202.9	101.2	83.7
Long-term debt (including long-term portions of acquisition payable and capital lease obligations) (4)	**34.4**	69.8	45.9	9.3	3.5
Capital expenditures	**1.8**	4.7	16.1	16.4	5.3
Stockholders' equity	**48.0**	85.7	70.2	60.2	53.3
Total long-term debt to equity %	**71.7%**	81.4%	65.4%	15.4%	6.6%
Cash flow provided (used) by operations	**4.5**	(28.1)	17.5	8.7	6.0

(1) See Note 3 of the Notes to Consolidated Financial Statements regarding restructuring, impairment and abandonment costs included in operating income.

(2) See Note 7 of the Notes to Consolidated Financial Statements regarding the March 7, 2003 acquisition of The Hake Group of Companies. The operating results of The Hake Group of Companies are included in the Selected Financial Data effective March 7, 2003.

(3) During the second quarter of fiscal 2004, the Company declared a two-for-one stock split payable, on November 21, 2003, in the form of a one-for-one stock dividend to shareholders of record on October 31, 2003. All shares, share prices and earnings per share amounts have been restated for all periods presented to reflect the change in the capital structure.

(4) See Note 5 of the Notes to Consolidated Financial Statements regarding classification of debt.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Management's discussion and analysis of our financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States (GAAP). GAAP represents a comprehensive set of accounting and disclosure rules and requirements, the application of which requires management judgments and estimates including, in certain circumstances, choices between acceptable GAAP alternatives. The preparation of these consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities, if any, at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. We base our estimates on historical experience and various other assumptions that are believed to be reasonable under the circumstances. Actual results could differ from these estimates under different assumptions or conditions. Note 1 to our consolidated financial statements included elsewhere in this Annual Report, contains a comprehensive summary of our significant accounting policies. The following is a discussion of our most critical accounting policies, judgments and uncertainties that are inherent in our application of GAAP:

CRITICAL ACCOUNTING POLICIES

Revenue Recognition

Matrix Service records profits on long-term contracts on a percentage-of-completion basis on the cost-to-cost method. Contracts in process are valued at cost plus accrued profits less billings on uncompleted contracts. Contracts are generally considered substantially complete when field construction is completed. The elapsed time from award of a contract to completion of performance may be in excess of one year. Matrix Service includes pass-through revenue and costs on cost-plus contracts, which are customer-reimbursable materials, equipment and subcontractor costs, when Matrix Service determines that it is responsible for the procurement and management of such cost components on behalf of the customer.

Matrix Service has numerous contracts that are in various stages of completion. Such contracts require estimates to determine the appropriate cost and revenue recognition. Matrix Service has a history of making reasonably dependable estimates of the extent of progress towards completion, contract revenues and contracts costs, and accordingly, does not believe significant fluctuations are likely to materialize. However, current estimates may be revised as additional information becomes available. If estimates of costs to complete long-term contracts indicate a loss, provision is made through a contract write-down for the total loss anticipated. A number of our contracts contain various cost and performance incentives and penalties that impact the earnings we realize from our contracts, and adjustments related to these incentives and penalties are recorded in the period when estimable or finalized, which is generally during the latter stages of the contract. Contract incentives are evaluated throughout the life of the contract and are recognized on a percentage-of-completion basis when the likelihood of obtaining the incentive becomes probable.

Indirect costs (such as salaries and benefits, supplies and tools, equipment costs and insurance costs) are charged to projects based upon direct labor hours and overhead allocation rates per direct labor hour. Warranty costs are normally incurred prior to project completion and are charged to project costs as they are incurred. Warranty costs incurred subsequent to project completion were not material for the periods presented. Overhead allocation rates are established annually during the budgeting process and evaluated for accuracy throughout the year based upon actual direct labor hours and actual costs incurred.

Matrix Service records revenue on reimbursable and time and material contracts based on a proportional performance basis as costs are incurred.

Claims Recognition

Claims are amounts in excess of the agreed contract price (or amounts not included in the original contract price) that we seek to collect from customers or others for delays, errors in specifications and designs, contract terminations, change orders in dispute or unapproved as to both scope and price or other causes of anticipated additional costs incurred by us. Recognition of amounts as additional contract revenue related to claims is appropriate only if it is probable that the claims will result in additional contract revenue and if the amount can be reliably estimated. We must determine if:

- there is a legal basis for the claim;
- the additional costs were caused by circumstances that were unforeseen by the Company and are not the result of deficiencies in our performance;
- the costs are identifiable or determinable and are reasonable in view of the work performed; and
- the evidence supporting the claim is objective and verifiable.

If all of these requirements are met, revenue from a claim is recorded only to the extent that we have incurred costs relating to the claim.

As of May 31, 2005 and May 31, 2004, accounts receivable and costs and estimated earnings in excess of billings on uncompleted contracts included revenues, to the extent of costs incurred, for unapproved change orders of approximately $0.2 million and $1.5 million, respectively, and claims of approximately $0.4 million and $1.3 million, respectively. Historically, our collections for unapproved change orders and other claims have approximated the amount of revenue recognized.

The following table provides a rollforward of revenue recognized on claims and unapproved change orders. Amounts disclosed for unapproved change orders exclude amounts associated with contract disputes disclosed in Note 12 – Contract Disputes.

	Claims for Unapproved Change Orders	Other Claims	Total
		(In Thousands)	
Balance at May 31, 2003	$ 377	$ 528	$ 905
Additions	1,990	1,015	3,005
Collections	(818)	(175)	(993)
Gain/(Loss)	(92)	(104)	(196)
Balance at May 31, 2004	$ 1,457	$ 1,264	$ 2,721
Additions	199	250	449
Collections	(1,806)	(1,095)	(2,901)
Gain/(Loss)	358	(36)	322
Balance at May 31, 2005	$ 208	$ 383	$ 591

Contract Dispute Receivables

Contract Dispute Receivables are comprised of accounts receivable and cost and estimated earnings in excess of billings for which settlement is subject to legal proceedings such as mediation, arbitration or litigation. Such proceedings have resulted in delays in obtaining resolution. As a result, the balances are presented separately on the balance sheet at estimated net realizable value based upon the most current information available. Amounts ultimately received may differ from the current estimate.

Loss Contingencies

Various legal actions, claims, and other contingencies arise in the normal course of our business. Contingencies are recorded in the consolidated financial statements, or are otherwise disclosed, in accordance with SFAS No. 5 “Accounting for Contingencies”. Specific reserves are provided for loss contingencies to the extent we conclude their occurrence is both probable and estimable. We use a case-basis evaluation of the underlying data and update our evaluation as further information becomes known. We believe that any amounts exceeding our recorded accruals should not materially affect our financial position, results of operations or liquidity. However, the results of litigation are inherently unpredictable and the possibility exists that the ultimate resolution of one or more of these matters could result in a material adverse effect on our financial position, results of operations or liquidity.

Legal costs are expensed as incurred.

Purchase Price Allocation

The purchase price for an acquisition is allocated to the net assets acquired based upon their estimated fair values on the date of acquisition. We record the excess of purchase price over fair value of the net assets acquired as goodwill. The fair value of net assets is primarily based upon estimated future cash flows associated with the net assets. Accordingly, our post-acquisition financial statements are materially impacted by and dependent on the accuracy of management’s fair value estimates at the time of acquisition. Our experience has been that the most significant of these estimates relate to the values assigned to construction contracts in progress and production backlog. These estimates can have a positive or negative material effect on future reported operating results.

Debt Covenant Compliance

We have certain financial covenants we are required to maintain under our credit facility. In the event of a financial covenant violation that is not appropriately waived by the lenders, or otherwise cured, re-payment of borrowings under the credit facility could be accelerated. Additionally, if a covenant violation has occurred (or would have occurred absent a loan modification), borrowings will be classified as current if it is probable that we will not maintain covenant compliance within the next twelve months. In this event, we are required to develop financial projections that allow us to assess the probability of whether or not we will be in covenant compliance for the subsequent 12-month period from the balance sheet date. Key assumptions utilized in the projections include estimated timing of the award and performance of work, estimated cash flows and estimated borrowing levels. These projections represent our best estimate of our operating results and financial condition for the subsequent 12-month period. As discussed in Note 5 of our Notes to Consolidated Financial Statements, the current bank group has amended our credit agreement and provided waivers for specified covenant violations.

Insurance Reserves

We maintain insurance coverage for various aspects of our operations. However, we retain exposure to potential losses through the use of deductibles, coverage limits and self-insured retentions. As of May 31, 2005 and May 31, 2004, insurance reserves totaling $5.0 million and $2.2 million, respectively, are reflected on our balance sheet. These amounts represent our best estimate of our ultimate obligations for asserted claims plus claims incurred but not yet reported at the balance sheet date. We establish specific reserves for claims using case-basis evaluations of the underlying claim data and update our evaluations as further information becomes known. Judgments and assumptions are inherent in our reserve accruals; as a result, changes in assumptions or claims experience could result in changes to these estimates in the future. Additionally, the actual results of claim settlements could differ from the amounts estimated.

Goodwill

Goodwill and intangible assets with indefinite useful lives are tested at least annually for impairment. Goodwill represents the excess of the purchase price of acquisitions over the fair value of the net assets acquired. Goodwill is evaluated for impairment by first comparing management's estimate of the fair value of a reporting unit with its carrying value, including goodwill. Reporting units for purposes of goodwill impairment calculations are our reportable segments.

Management utilizes a discounted cash flow analysis to determine the estimated fair value of our reporting units. Judgments and assumptions related to revenue, gross margins, operating expenses, interest, capital expenditures, cash flow and market assumptions are inherent in these estimates. As a result, use of alternate judgments and/or assumptions could result in a fair value that differs from our estimate and ultimately results in the recognition of impairment charges in the financial statements. We utilize various assumption scenarios and assign probabilities to each of these scenarios in our discounted cash flow analysis. The results of the discounted cash flow analysis are then compared to the carrying value of the reporting unit.

If the carrying value of a reporting unit exceeds its fair value, a computation of the implied fair value of goodwill is compared with its related carrying value. If the carrying value of the reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in the amount of the excess. If an impairment charge is incurred, it would negatively impact our results of operations and financial position. We perform our annual analysis during the fourth quarter of each fiscal year and in any other period in which indicators of impairment warrant an additional analysis.

Recently Issued Accounting Standards

In December 2004, the Financial Accounting Standards Board (FASB) issued revised SFAS No. 123, "Share-Based Payment." The statement requires that compensation costs for all share-based awards to employees be recognized in the financial statements at fair value. The Statement, as issued by the FASB, was to be effective as of the beginning of the first interim or annual reporting period that begins after June 15, 2005. However, on April 15, 2005, the Securities and Exchange Commission (SEC) adopted a new rule which amends the compliance dates for revised SFAS No. 123. The rule allows implementation of the Statement at the beginning of the next fiscal year that begins after June 15, 2005. We intend to adopt the revised Statement in the first quarter of fiscal 2007. We are also studying the provisions of this new pronouncement to determine the impact on our financial statements.

Matrix Service Company
Annual Results of Operations
(Amounts In Thousands, Except Per Share Data)

	Construction Services	Repair and Maintenance Services	(1) Other	Consolidated Total
Year ended May 31, 2005				
Consolidated revenues	$ 203,950	$ 235,188	$ —	$ 439,138
Gross profit	12,178	18,841	—	31,019
Operating income (loss)	(40,786)	2,005	(357)	(39,138)
Income (loss) before income tax expense	(44,052)	(49)	(357)	(44,458)
Net income (loss)	(38,590)	(19)	(221)	(38,830)
Earnings per share – diluted				(2.24)
Weighted average shares – diluted				17,327
Year ended May 31, 2004				
Consolidated revenues	$ 429,592	$ 178,312	$ —	$ 607,904
Gross profit	27,552	18,761	—	46,313
Operating income (loss)	9,957	7,630	(68)	17,519
Income (loss) before income tax expense	8,468	6,813	(68)	15,213
Net income (loss)	5,547	4,035	(40)	9,542
Earnings per share – diluted				0.54
Weighted average shares – diluted				17,615
Year ended May 31, 2003				
Consolidated revenues	$ 171,037	$ 117,381	$ —	$ 288,418
Gross profit	18,746	12,864	—	31,610
Operating income	7,301	4,361	782	12,444
Income before income tax expense	7,160	4,304	782	12,246
Net income	5,049	2,644	485	8,178
Earnings per share – diluted (2)				0.49
Weighted average shares – diluted (2)				16,710
Variances 2005 to 2004				
Consolidated revenues	$ (225,642)	$ 56,876	$ —	$ (168,766)
Gross profit	(15,374)	80	—	(15,294)
Operating income (loss)	(50,743)	(5,625)	(289)	(56,657)
Income (loss) before income tax expense	(52,520)	(6,862)	(289)	(59,671)
Net income (loss)	(44,137)	(4,054)	(181)	(48,372)
Variances 2004 to 2003				
Consolidated revenues	$ 258,555	$ 60,931	$ —	$ 319,486
Gross profit	8,806	5,897	—	14,703
Operating income (loss)	2,656	3,269	(850)	5,075
Income (loss) before income tax expense	1,308	2,509	(850)	2,967
Net income (loss)	498	1,391	(525)	1,364

Certain amounts in the years ended May 31, 2004 and 2003 have been reclassified to conform with the 2005 presentation.

(1) Includes items associated with exited operations and integration costs related to the Hake acquisition.
(2) During the second quarter of fiscal 2004, the Company declared a two-for-one stock split payable, on November 21, 2003, in the form of a one-for-one stock dividend to shareholders of record on October 31, 2003. All shares, share prices and earnings per share amounts have been restated for all periods presented to reflect the change in the capital structure.

RESULTS OF OPERATIONS

Overview

The Company has two reportable segments, Construction Services and Repair and Maintenance Services. The majority of the work for both segments is performed in the United States with only a minimal amount occurring in Canada.

The Construction Services segment includes turnkey and specialty construction services provided primarily to the downstream petroleum and power industries. These services include civil/structural, mechanical, piping, electrical and instrumentation, millwrighting, steel fabrication and erection, specialized heavy hauling and rigging, boiler work, engineering, and fabrication and construction of aboveground storage tanks.

The Repair and Maintenance Services segment provides routine, preventive and emergency-required maintenance and repair services primarily to the downstream petroleum and power industries. These services include plant turnarounds, power outages, industrial cleaning, facility and AST maintenance and repair.

Significant fluctuations in revenues, gross profits and operating results are discussed below on a consolidated basis and for each segment. Our revenues fluctuate from quarter to quarter due to many factors, including the changing product mix and project schedules, which are dependent on the level and timing of customer releases of new business.

FISCAL YEAR 2005 VERSUS 2004

Consolidated

Consolidated revenues were $439.1 million in fiscal 2005, a decrease of $168.8 million, or 27.8%, from consolidated revenues of $607.9 million for fiscal 2004. The decrease in consolidated revenues resulted from a $225.7 million decrease in Construction Services revenues partially offset by a $56.9 million increase in Repair and Maintenance Services revenues.

Consolidated gross profit decreased from $46.3 million in fiscal 2004 to $31.0 million during fiscal 2005. This decline of $15.3 million, or 33.0%, in gross profit resulted primarily from the 27.8% decline in revenues. Consolidated gross margin declined from 7.6% in fiscal 2004 to 7.1% in fiscal 2005 primarily due to the decline in Construction Services' revenue, which led to a smaller consolidated revenue base available to absorb fixed costs. Also negatively impacting margins, was the partial replacement of construction revenues coming in the form of low margin repair and maintenance work.

Consolidated SG&A expenses were $40.3 million during fiscal 2005 compared to $28.7 million for fiscal 2004. This increase of $11.6 million was primarily attributable to an additional $10.3 million contract dispute reserve recorded in the third quarter of fiscal 2005 for the previously disclosed contract disputes as a result of the Company's effort to accelerate the collection of amounts owed in order to help alleviate the Company's liquidity situation. The table below provides an analysis of SG&A and other charges in fiscal 2005. Partially offsetting these expenses were cost reduction strategies implemented in both the first and fourth quarters of fiscal 2005 and a reduction in employee incentives, which are based on attainment of financial goals. SG&A expense as a percentage of revenue increased to 9.2% in fiscal 2005 compared to 4.7% in the prior fiscal year as a result of a 27.8% decrease in revenues combined with the contract dispute reserve adjustment and the other additional SG&A charges noted in the table below.

Restructuring, impairment and abandonment charges of $29.8 million in fiscal 2005 consisted mainly of an impairment of goodwill with the remaining difference primarily related to restructuring charges which are both noted in the table below.

Interest expense increased to $5.7 million during fiscal 2005 as compared to $2.9 million in fiscal 2004 due to higher interest rates, amortization of credit facility amendment fees and the increased level of debt that resulted from collection issues and contract disputes, which carried over from fiscal 2004.

Income before income tax expense decreased from $15.2 million in fiscal 2004 to a loss before income tax of $44.5 million during fiscal 2005. This $59.7 million decrease was due to a combination of lower gross margins resulting from the decline in consolidated revenues, an adjustment to the contract dispute reserve, impairment of goodwill and higher interest expense.

The effective tax rates for fiscal 2005 and fiscal 2004 were 12.7% and 40.6%, respectively. The unusually low effective tax rate in fiscal 2005 is attributable to the absence of a tax benefit for the impairment of goodwill, combined with establishing a valuation allowance for certain deferred tax assets of approximately $2.5 million.

The following table provides a summary of charges and expenses impacting earnings in fiscal 2005.

	Fiscal 2005	
	Expense	EPS
	(In Thousands)	
SG&A		
Sarbanes Oxley 404 Compliance (1)	**$ 1,112**	**$(0.04)**
Legal – Disputed Contracts (1)	**2,240**	**(0.08)**
Contract Dispute Reserve (2)	**10,333**	**(0.39)**
	$13,685	**$(0.51)**
Restructuring, Impairment and Abandonment		
Goodwill Impairment (3)	**$25,000**	**$(1.44)**
Fixed Asset Impairment (3)	**1,168**	**(0.07)**
Restructuring Expenses	**3,654**	**(0.13)**
	$29,822	**$(1.64)**
Provision (Benefit) for Income Tax Deferred Asset		
Valuation Allowance (3)	**$ 2,520**	**$(0.15)**

(1) In comparison, fiscal 2004 included $150 for Sarbanes-Oxley and $1,163 for legal expenses related to disputed contracts.
(2) The effective tax rate is 34% for the contract dispute reserve.
(3) The effective tax rate is 0% for goodwill impairment, fixed asset impairment and the deferred tax asset while all others except for (2), are at an effective tax rate of 40.5%.

Construction Services

Construction Services revenues during fiscal 2005 were $204.0 million, compared to $429.6 million in the prior fiscal year, a decrease of $225.6 million, or 52.5%. The decrease was primarily due to a $261.9 million decrease in revenues from the Power Industry, which resulted from the completion of two large power projects performed by our Eastern operations in fiscal 2004. Partially offsetting this decline was revenue from Other Industries, which increased $15.4 million, and Downstream Petroleum Industries, which increased $20.9 million.

Gross profit decreased from $27.6 million in fiscal 2004 to $12.2 million during fiscal 2005, a decrease of 55.8%, resulting primarily from the 52.5% decrease in the volume of business. Construction Services gross margins declined from 6.4% in fiscal 2004 to 6.0% during fiscal 2005 due to a lower revenue base available for fixed cost absorption, and primarily due to decreases resulting from three loss projects in the Western business unit. Last year's margins were also impacted by two low margin power projects completed at the end of fiscal 2004.

The operating loss and loss before income tax expense for fiscal 2005 of $40.8 million and $44.1 million, respectively, compared unfavorably to operating income and income before income tax expense of $10.0 million and $8.5 million, respectively, produced during fiscal 2004. This was due to the sharp decline in revenues, higher interest expense, an additional contract dispute reserve and the impairment of goodwill.

Repair and Maintenance Services

Revenues from Repair and Maintenance Services increased $56.9 million, or 31.9%, from $178.3 million during fiscal 2004, to $235.2 million in fiscal 2005. This improvement resulted primarily from increased revenues from the Downstream Petroleum Industry, which increased $46.5 million as a result of strong turnaround activity combined with the addition of maintenance contracts entered into in the third quarter of fiscal 2005. In addition, revenues from the Power Industry increased $11.8 million, while Other Industries declined $1.4 million.

Gross margins of 8.0% for fiscal 2005 were lower than gross margins of 10.5% in fiscal 2004, despite the 31.9% increase in revenues, as a result of a large presence of low margin maintenance projects, a number of which have subsequently been exited. Gross profit remained consistent for both fiscal years at $18.8 million despite increased revenues, due to the presence of lower margin projects.

Operating income and income before income tax expense for fiscal 2005 of $2.0 million and $0.0 million, respectively, were lower than the operating income and income before income tax expense of $7.6 million and $6.8 million, respectively, produced in fiscal 2004. This decline was primarily due to increased SG&A and restructuring costs combined with higher interest expense.

FISCAL YEAR 2004 VERSUS 2003

Consolidated

Consolidated revenues were $607.9 million during fiscal 2004, an increase of $319.5 million, or 110.8%, from consolidated revenues of $288.4 million for fiscal 2003. This increase in consolidated revenues resulted from a $258.6 million increase in Construction Services revenues, combined with a $60.9 million increase in Repair and Maintenance Services revenues. These increases were primarily due to the inclusion of the Hake acquisition for only one quarter in fiscal 2003, as compared to the full year in fiscal 2004.

Consolidated gross profit increased from $31.6 million in fiscal 2003 to $46.3 million during fiscal 2004. This increase of $14.7 million, or 46.5%, in gross profit was a direct result of the 110.8% increase in revenues, partially offset by lower margin work in the mix of business. Consolidated gross margin decreased from 11.0% in fiscal 2003 to 7.6% in fiscal 2004, primarily due to the inclusion of lower margin work in the mix of business particularly on large power projects.

Consolidated SG&A expenses were $28.7 million during fiscal 2004 compared to $20.4 million for fiscal 2003. The majority of this $8.3 million increase was attributable to the added overhead resulting from the acquisition of Hake. In addition, Fiscal 2004 included $1.2 million legal expense related to contract disputes along with $0.2 million for Sarbanes-Oxley compliance work. SG&A expense as a percentage of revenue decreased to 4.7% in fiscal 2004, compared to 7.1% in the prior fiscal year as a result of leveraging the fixed cost structure with the Hake acquisition, which spread these costs over a larger revenue base. In addition, there were charges of approximately $0.5 million in fiscal 2003 related to the integration of Hake.

Restructuring, impairment and abandonment gain of $1.3 million in fiscal 2003 consisted mainly of a one-time insurance settlement of $1.0 million from a recovery under Matrix Service’s environmental insurance policy of expenditures made to remediate previously owned properties in Newnan, Georgia, as well as a $0.3 million reduction in workers’ compensation reserves related to exited operation.

Interest expense increased to $2.9 million during fiscal 2004 as compared to $0.9 million in fiscal 2003 as a result of increased debt that occurred due to the acquisition of Hake, increased working capital needs, and collection delays resulting from collection issues and contract disputes.

Income before income tax expense increased from $12.2 million in fiscal 2003 to $15.2 million during fiscal 2004. This $3.0 million increase was due to a higher volume of business creating better margins partially offset by a combination of greater fixed costs related to the acquisition of Hake, and higher interest expenses due to increased level of debt.

The effective tax rates for fiscal 2004 and fiscal 2003 were 40.6% and 38.6%, respectively. The increased effective tax rate in fiscal 2004 is due to the Company's federal tax rate increasing 1%, the generation of more income in states with higher tax rates and the realization of permanent tax credits in the third quarter of fiscal 2003.

Construction Services

Construction Services revenues during fiscal 2004 were $429.6 million, compared to $171.0 million in the prior fiscal year, an increase of $258.6 million, or 151.2%. This increase was primarily due to a $238.5 million increase in revenues from the Power Industry, which resulted primarily from the realization of low margin projects due to the Hake acquisition. Adding to this increase was revenue from both Other Industries, which increased $5.3 million, and Downstream Petroleum Industries, which increased $14.8 million.

Construction Services gross margins declined from 11.0% in fiscal 2003, to 6.4% during fiscal 2004 as a result of lower margin Hake work in the mix of business, particularly on large power projects. Also, cost overruns, overruns by subcontractors to the Company, contract disputes and a bankrupt customer all contributed to the lower margins realized on the Hake work. Gross profit increased from $18.7 million in fiscal 2003 to $27.6 million during fiscal 2004, an increase of 47.0% resulting primarily from the 151.2% increase in the volume of business, offset by the inclusion of lower margin work.

The operating income and income before income tax expense for fiscal 2004 of $10.0 million and $8.5 million, respectively, were higher than the operating income and income before income tax expense of $7.3 million and $7.2 million, respectively, produced during fiscal 2003, due to increased revenues, partially offset by declining margins.

Repair and Maintenance Services

Revenues from Repair and Maintenance Services increased $60.9 million, or 51.9%, from $117.4 million during fiscal 2003, to $178.3 million in fiscal 2004. This improvement resulted primarily from increased revenues from the Downstream Petroleum Industry, which increased $43.0 million. In addition, revenues from the Power Industry and Other Industries increased $8.4 million and $9.5 million, respectively. This overall increase is a direct result of the inclusion of Hake revenues for the full year in fiscal 2004, versus only the fourth quarter in fiscal 2003.

Gross margins of 10.5% for fiscal 2004 were lower than the gross margins of 11.0% in fiscal 2003 due primarily to the inclusion of lower margin Hake repair and maintenance work and lower margins on routine repair and maintenance activities as a result of lower demand in the first half of fiscal 2004. The lower margins on the Hake repair and maintenance activity resulted from the strategic decision to take a large turnaround project in the second quarter with a new customer at very low gross margins. The increased volume of business, partially offset by the decline in margins produced gross profit in fiscal 2004 of $18.8 million, a 45.8% increase from the $12.9 million reported for fiscal 2003.

Operating income and income before income tax expense for fiscal 2004 of $7.6 million and $6.8 million, respectively, were more than the operating income and income before income tax expense of $4.4 million and $4.3 million, respectively, produced in fiscal 2003 primarily due to higher volume of business in fiscal 2004.

Outlook

Fiscal 2006 will be a transition year with the emphasis on executing our work profitably, reducing our risk profile, improving margins and completing our restructuring and refinancing efforts.

In March 2005, the Company initiated a restructuring program to reduce its cost structure and improve its operating results. The Company focused on its core strengths and identified those areas with the objective of eliminating unprofitable and marginal work. As a result of this effort, Matrix sold the transportation and rigging assets and has executed a letter of intent to sell the aluminum floating roof business. Matrix is also in the process of selling excess facilities or land in Tulsa, Oklahoma; Orange, California; and Holmes, Pennsylvania. These liquidity events, coupled with various tax refunds is expected to yield approximately $12.0 million in cash, which will be used to improve liquidity. Matrix also ceased to work on a number of large routine maintenance contracts that were utilizing valuable resources while providing minimal returns. As these maintenance contracts were reduced, there was a significant reduction of overhead and administration costs. As a result of these efforts and other efforts to reduce costs, Matrix was able to reduce its annual administrative payroll and benefit costs by more than $5.0 million.

We are not in a position at this point of the Company's turnaround to provide meaningful guidance except to say that we anticipate a profitable year with results improving as the year progresses.

We are hopeful that the disputed receivables will be resolved by the end of fiscal 2006 which, when coupled with the planned liquidity events discussed earlier and cash flow from operations, would allow us to be in a position to pay off most, if not all, of our bank debt.

Fiscal 2005 has been a difficult year and one we would rather not repeat. The changes we have made in late fiscal 2005 and continuing in the first half of fiscal 2006 will, however, put the Company in a position to return to profitable growth.

Non-GAAP Financial Measure

EBITDA is a supplemental, non-generally accepted accounting principle (GAAP) financial measure. EBITDA is defined as earnings before taxes, interest expense, depreciation and amortization. We have presented EBITDA because it is used by the financial community as a method of measuring our performance and of evaluating the market value of companies considered to be in similar businesses. We believe that the line item on our consolidated statements of operations entitled "net income (loss)" is the most directly comparable GAAP measure to EBITDA. Since EBITDA is not a measure of performance calculated in accordance with GAAP, it should not be considered in isolation of, or as a substitute for, net earnings as an indicator of operating performance. EBITDA, as we calculate it, may not be comparable to similarly titled measures employed by other companies. In addition, this measure does not necessarily represent funds available for discretionary use, and is not necessarily a measure of our ability to fund our cash needs. As EBITDA excludes certain financial information compared with net income (loss), the most directly comparable GAAP financial measure, users of this financial information should consider the type of events and transactions, which are excluded. Our non-GAAP performance measure, EBITDA, has certain material limitations as follows:

- It does not include interest expense. Because we have borrowed money to finance our operations, interest expense is a necessary and ongoing part of our costs and has assisted us in generating revenue. Therefore, any measure that excludes interest expense has material limitations.
- It does not include taxes. Because the payment of taxes is a necessary and ongoing part of our operations, any measure that excludes taxes has material limitations.
- It does not include depreciation and amortization expense. Because we use capital assets, depreciation and amortization expense is a necessary element of our costs and ability to generate revenue. Therefore, any measure that excludes depreciation and amortization expense has material limitations.

EBITDA for the year ended May 31, 2005 was a $32.0 million loss, compared to a positive $25.4 million and $19.5 million for the years ended May 31, 2004 and May 31, 2003, respectively. A reconciliation of EBITDA to net income (loss) follows:

	For the Year Ended		
	May 31, 2005	May 31, 2004	May 31, 2003
		(In Thousands)	
Net Income (loss)	$ (38,830)	$ 9,542	$ 8,178
Interest Expense, net	5,720	2,885	935
Provision (benefit) for income taxes	(5,628)	6,528(A)	5,141(A)
Depreciation and amortization	6,726	6,408	5,231
EBITDA	$ (32,012)	$ 25,363	$ 19,485

(A) Provision for income taxes for the year ended May 31, 2004 and 2003 included $347 and $429, respectively, of taxes related to net earnings of joint venture.

The $57.4 million decrease in EBITDA for the year ended May 31, 2005, as compared to the prior year, was primarily due to an impairment charge of $25.0 million, a contract dispute reserve of $10.3 million incurred during the third quarter of fiscal 2005 and higher SG&A and restructuring expenses. In addition, operating results, primarily in the construction services segment, were lower in fiscal 2005 as compared to fiscal 2004.

FINANCIAL CONDITION AND LIQUIDITY

Our cash and cash equivalents totaled approximately $1.5 million at May 31, 2005 and $0.8 million at May 31, 2004. Our operations provided $4.5 million of cash for the twelve months ended May 31, 2005, as compared with using $28.1 million of cash for the twelve months ended May 31, 2004, representing an increase of approximately $32.6 million. The increase was primarily due to increased amounts owed to vendors and increased billings in excess of costs and estimated earnings to customers. These increases were partially offset by increased accounts receivable.

At fiscal year-end, our debt consisted of the following:

	May 31,	
	2005	2004
	(In Thousands)	
Borrowings under bank credit facility:		
Revolving credit facility	$20,281	$40,390
Term note	22,398	28,441
Interest rate swap liability	86	271
Convertible Notes	30,000	—
	72,765	69,102
Less current portion:		
Revolving credit facility	20,281	—
Term note	22,398	4,643
Interest rate swap liability	86	250
Long-Term Debt	$30,000	$64,209

Matrix Service believes that its existing funds, amounts available from borrowing under its existing credit agreement, cash generated by operations, cash generated from the sale of non-core assets and our anticipated refinancing of the senior credit facility will be sufficient to meet the working capital needs through fiscal 2006 and for the foreseeable time thereafter unless significant expansions of operations not now planned are undertaken, in which case Matrix Service would need to arrange additional financing as a part of any such expansion. However, we can provide no assurance that we will be successful in refinancing our senior credit facility, or in obtaining alternative financing.

Credit Agreement and Revolving Credit Facility

On March 7, 2003, we replaced our prior credit agreement with an $87.5 million senior credit facility entered into with a group of banks. The credit agreement originally consisted of a five-year term loan of $32.5 million and a three-year $55 million revolving credit facility. Substantially all of our properties and assets and those of our domestic subsidiaries secure the senior credit facility. Under the original agreement, we paid LIBOR-based interest on funds borrowed under the term loan and funds borrowed on a revolving basis bore interest on a Prime or LIBOR-based option.

In August 2004, the senior credit facility was amended to convert $20 million of the revolver balance to a term loan (Term Loan B) and to reduce the credit commitment on the revolver by an equal amount from $55 million to $35 million. The facility was further amended in December 2004 to provide that interest on Term Loan B would accrue at a 12.5% per annum fixed rate from November 30, 2004 until March 31, 2005, when the interest rate increased to an 18% per annum fixed rate. The interest rate was scheduled to further increase to a 21% per annum fixed rate on June 30, 2005.

In April 2005, the Company issued $30.0 million of convertible debt notes and Term Loan B was paid in full. At that time, the credit agreement was amended to limit availability under the primary revolver to the lesser of $35 million or 80% of the borrowing base. The amendment also established a $10 million revolving loan B commitment. The revolving loan B commitment bears cash interest at prime, had an original maturity of October 31, 2005 and is secured by various contract dispute receivables. Availability under the commitment is limited to $10 million less an amount equal to the value of all of our outstanding checks. The revolving loan B commitment will be further reduced by an amount equal to any funds collected with respect to “large disputed accounts.” In addition, the revolving B borrowing base and, consequently, the revolving B loan commitment, may be decreased by the revolver B lenders in their sole discretion.

In August 2005, the senior credit facility was amended (Amendment Ten) to extend both revolving loan commitments to June 30, 2006.

Our credit agreement requires us to make mandatory prepayments in certain circumstances, including upon the sale of certain assets in excess of $250,000, the sale of stock or the issuance of subordinated indebtedness, or in the event that we generate “excess cash,” incur a borrowing base deficiency or collect contract dispute receivables.

Amendment Ten to our credit agreement modified the required financial covenants. Under Amendment Ten, we are required to maintain minimum levels of "augmented consolidated EBITDA" for various quarterly test periods through May 31, 2006 as of designated quarterly test dates. The starting point for the augmented consolidated EBITDA is "consolidated EBITDA", which is defined to include "consolidated net income," plus, to the extent deducted in determining consolidated net income, (i) consolidated interest expense (ii) expense for taxes paid or accrued, (iii) depreciation and amortization, (iv) up to $3,000,000 in the aggregate of the following: (A) (1) specifically defined professional and consulting fees (2) other expenses related to the reorganization of Borrower's fabrication operation, (3) lease termination cost arising from the termination of leases occurring as a part of and during the restructure, and (4) costs and expenses related to the search for a replacement Chief Executive Officer but only to the extent paid or incurred on or before November 30, 2005; (B) severance payments and retention bonuses associated with restructuring; (C) legal fees and legal expenses incurred with regard to the enforcement and collection of the large disputed accounts; (D) losses on sales of fixed assets approved by the lenders and incurred prior to November 30, 2005; and (E) losses arising from the settlement of large disputed accounts minus, to the extent included in consolidated net income, (i) gains on sales of fixed assets, (ii) extraordinary gains realized other than in the ordinary course of business, and (iii) income tax benefits. The minimum level of augmented consolidated EBITDA for each quarterly test period is as follows:

Test Periods	Minimum Augmented Consolidated EBITDA	Test Date
June 1, 2005 through August 31, 2005	$ 4,135,000	September 30, 2005
June 1, 2005 through November 30, 2005	$ 7,493,000	December 31, 2005
June 1, 2005 through February 28, 2006	$ 10,651,000	March 31, 2006
June 1, 2005 through May 31, 2006	$ 15,302,000	June 30, 2006

For purposes of determining compliance with this covenant, "consolidated EBITDA" is increased by an amount equal to the lesser of (i) $3,000,000 or (ii) the sum of the following: (A) if one or more sales of assets approved by the lenders has occurred, then the aggregate for all such sales of the following: the amount, if any, by which (1) an amount equal to the Borrowing Base immediately after the closing of such sale minus the aggregate principal balance of the Revolving Loans measured immediately after the application of such proceeds exceeds; (2) an amount equal to the Borrowing Base immediately prior to the closing of such sales minus the aggregate principal balance of the Revolving Loans measured immediately prior to the application of such proceeds; (B) federal and state tax refunds received during such period less the amount of any taxes paid; (C) reimbursements received during such period from customers for capital expenditures associated with the LNG project to the extent that, during the same period, such capital expenditures actually occurred; and (D) cash proceeds received during such period from the sale of any common stock, preferred stock, warrant or other equity (other than the exercise of stock options by employees, officers and directors) approved by the lenders and from the issuance of any subordinated indebtedness approved by the lenders.

Amendment Ten also requires us to maintain a minimum fixed charge coverage ratio of augmented consolidated EBITDA for the fiscal year to date minus cash dividends and distributions made or paid during the period to scheduled current maturities of the term loan for the fiscal year to date, plus scheduled current maturities of the Hake Group acquisition payable for the fiscal year to date, plus consolidated interest expense for the year to date (excluding amounts included in consolidated interest expense for (1) amortization of deferred financing fees (2) amortization of prepaid interest related to the subordinated debt, (3) accretion related to The Hake Group acquisition payable, and (4) interest attributable to the additional accrued margin that is neither paid for nor due and payable during the fiscal year to date, plus current maturities on capitalized leases for the fiscal year to date and capital expenditures paid during such fiscal year to such date. The ratio at each quarterly measurement date shall be less than 1.00.

Amendment Ten also requires us to maintain a minimum debt service coverage ratio of consolidated EBITDA for the fiscal year to date minus cash dividends and distributions during the period to scheduled current maturities of the term loan for the fiscal year to date, plus scheduled current maturities of the Hake Group acquisition payable for the fiscal year to date, plus consolidated interest expense for the year to date (excluding amounts described above), plus current maturities on capitalized leases for the fiscal year to date. The required debt service coverage ratio is 1.43 for the period ended August 31, 2005, 1.65 for the period ending November 30, 2005, 1.65 for the period ending February 28, 2006 and 1.38 for the period ending May 31, 2006.

Amendment Ten provides that borrowings under the revolver and the term loan shall bear prime-based interest plus a margin. The agreement further provides for an additional accrued margin that is paid upon termination of the facility. The amendment provides for cash pay interest at a rate of prime plus 1.0% and accrued interest at at 1.0% beginning April 2005 and escalating fifty basis points monthly until December 31, 2005 at which time the accrued margin is 5.0%. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers and the term loan. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31. 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. We were paying a weighted average interest rate of 8.50% on the term loan and the revolver at May 31, 2005.

On August 10, 2005, the lenders executed a waiver which modified the required covenants at May 31, 2005, to require (i) Consolidated EBITDA (as defined) to be greater than or equal to $2,596,000 and (ii) a Fixed Charge Coverage Ratio (as defined) to be greater than or equal to 0.925.

The following table presents the required and actual financial covenant measures in effect as of May 31, 2005:

Fixed Charge Ratio	
Minimum Ratio Required	0.925
Actual Ratio	0.966
Excess / (Shortfall)	0.041
EBITDA (in thousands)	
Minimum EBITDA Required	$ 2,596
Actual EBITDA	2,903
Excess / (Shortfall)	$ 307

At May 31, 2005, $20.3 million was outstanding under the revolver and $22.4 million was outstanding under the five-year term loan. There were no borrowings under Revolver B. In addition, $10.0 million of the revolver was utilized by outstanding letters of credit, which automatically renew annually. At May 31, 2005, remaining availability under the credit facility consisted of $4.7 million available under the primary revolver and $7.7 million under Revolver B. At August 12, 2005, availability under our primary revolver was $10.6 million and $7.7 million under Revolver B.

The credit agreement also limits our capital expenditures to $9 million annually, limits unsecured indebtedness we may borrow for general operating purposes to $1 million, limits capital lease obligations to $15 million and limits the amount of letters of credit we may have outstanding to $15 million.

Although our credit agreement provides us with sufficient liquidity for the upcoming fiscal year, the revolving loan B and the $35 million revolver expire on June 30, 2006. Furthermore, revolving loan B may be reduced at the lenders sole discretion. While we are currently working to obtain a new credit facility, we cannot assure you that our efforts will be successful. In addition, the failure to comply with the terms of our credit agreement has required us to incur significant fees to our lenders to obtain waivers and amendments and caused us to seek alternative financing. Without acceptable waiver or amendments from our lenders with respect to any future covenant violations or alternative financing on terms acceptable to us, our lenders would have the right, among others, to declare all amounts outstanding under the credit agreement to be immediately due and payable and foreclose upon and sell substantially all of our assets to repay such amounts.

In March 2005, the Company initiated a restructuring program to reduce its cost structure and improve its operating results. The Company focused on its core strengths and identified those areas with the objective of eliminating unprofitable and marginal work . As a result of this effort, Matrix sold the transportation and rigging assets and has executed a letter of intent to sell the aluminum floating roof business. Matrix is also in the process of selling excess facilities or land in Tulsa, Oklahoma; Orange, California; and Holmes, Pennsylvania. These liquidity events, coupled with various tax refunds is expected to yield approximately $12.0 million in cash, which will be used to improve liquidity. Matrix also ceased to work on a number of large routine maintenance contracts that were utilizing valuable resources while providing minimal returns. As these maintenance contracts were reduced, there was a significant reduction of overhead and administration costs. As a result of these efforts and other efforts to reduce costs, Matrix was able to reduce its annual administrative payroll and benefit costs by more than $5.0 million.

The credit facility provides for mandatory prepayments upon the occurrence of certain events, certain of these events are expected to occur in fiscal 2006, therefore, we have classified the credit facility as current. If these events do not occur, the scheduled aggregate maturities of long-term debt for the years ending May 31, are as follows – 2006—$5.8 million; 2007—$24.9 million and 2008—$12.0 million.

The carrying value of debt approximates fair value.

The Company did not capitalize any interest in 2005 or 2004, while $0.3 million was capitalized in 2003.

Convertible Debt

In connection with the private placement of $30 million of convertible notes, on April 22, 2005, we entered into a registration rights agreement. The registration rights agreement requires us to use our best efforts to keep our registration statement, covering the resale of the shares of our common stock issuable upon conversion of the convertible notes, continuously effective until the earlier of (a) the date on which all of our common stock covered by such registration statement has been sold or may be sold without volume restrictions pursuant to Rule 144(k) under the Securities Act of 1933, as amended, or (b) the fifth anniversary of the closing date. Although the Registration Statement was declared effective by the SEC on June 17, 2005, if we fail to satisfy our obligations under the registration rights agreement, we will owe the holders of the convertible notes as partial liquidated damages an amount in cash equal to 1% of the aggregate amount paid for the convertible notes for each such event, and thereafter on each monthly anniversary of each such event (if the applicable failure shall not have been cured by such date) until the applicable failure is cured, we will owe the note holders an amount in cash equal to an additional 1% of the aggregate amount paid for the convertible notes. The convertible notes are convertible into shares of the Company's common stock at an initial conversion price of $4.69 per share, subject to adjustment for stock dividends, stock splits, or other matters as provided for in the securities purchase agreement.

The convertible notes were issued under a securities purchase agreement among the Company and certain investors, and bear interest at a rate of 7% per year. An initial interest pre-payment of $4.2 million was made on April 25, 2005 for the period to and including April 25, 2007. Prepaid interest of $1.9 million is included in prepaid assets and $2.1 million in other assets at May 31, 2005. Interest is payable in arrears on each March 31, June 30, September 30 and December 31, beginning on June 30, 2007, through the date of maturity. In addition, if we fail to refinance our credit facility prior to September 30, 2005, additional interest of 5.00% per annum will accrue and be added to the principal balance of our convertible notes beginning October 1, 2005 and until our credit facility is refinanced.

The securities purchase agreement requires us to maintain certain financial ratios, limits the amount of capital and operating leases we can enter into, limits the amount of additional borrowings we may incur, and limits the amount of purchase money financing we may enter into.

Financial ratios contained in the securities purchase agreement are as follows:

- Commencing fifteen months from the closing date and so long as any of the convertible notes are outstanding, a leverage ratio not to exceed 4.25 to 1.0. The leverage ratio is calculated as the ratio of total debt as of any date to EBITDA for the period of four consecutive fiscal quarters ending on, or most recently before, such date. EBITDA is defined as consolidated net income plus, to the extent deducted in determining consolidated net income, (i) consolidated interest expense, (ii) expense for taxes paid or accrued, (iii) depreciation, amortization and other non-cash charges, including non-cash charges related to the implementation of the Company's restructuring plan, and cash charges for professional fees associated therewith, (iv) losses on sale of fixed assets, and (v) extraordinary losses incurred other than in the ordinary course of business, minus, to the extent included in consolidated net income, (i) gains on sales of fixed assets, and (ii) extraordinary gains realized other than in the ordinary course of business, all calculated for the Company and its subsidiaries on a consolidated basis for the then most recently ended four fiscal quarters.
- From fifteen months from the closing date until the second anniversary of the closing date for the convertible notes, a cash interest coverage ratio, which must at all times exceed 2.5 to 1. The cash interest coverage ratio is calculated as the ratio of (i) EBITDA for the then most recently ended fiscal four quarters to (ii) "cash interest expense" for such period. The term "cash interest expense" includes interest expense of the Company and its subsidiaries for such period (excluding interest expense that has been capitalized and not paid in cash), determined on a consolidated basis in accordance with GAAP.
- After the second anniversary of the closing date for the convertible notes, an "interest coverage ratio," which must at all times exceed 2.5 to 1.0. The interest coverage ratio is calculated as the ratio of EBITDA for a period of the four consecutive fiscal quarters to (ii) interest expense for such period. The term "interest expense" includes interest expense of the Company and its subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

The securities purchase agreement also limits the amount of senior obligations permitted under the senior credit facility or the refinancing or replacement thereof, including new and replacement letters of credit, to $90 million; limits capital lease obligations to $1 million, limits operating leases to $15 million, limits purchase money financing to $1 million and limits debt under the Company's performance and bonding line to $150 million.

Acquisition Payable

As part of the purchase of the Hake Group of Companies in Fiscal 2003, the Company entered into an acquisition payable for a portion of the purchase price. The acquisition payable is recorded at its fair value of $6.0 million and accreted for the change in its present value each period utilizing a 5.1% effective interest rate. Payments related to the acquisition payable are due annually on March 7 with $1.9 million due annually in 2006 and 2007, and $2.8 million due in 2008.

Capital Expenditures

Capital expenditures during the twelve months ended May 31, 2005 totaled $1.8 million. These capital expenditures included $1.0 million for purchases of small tools, construction and fabrication equipment, $0.4 million for computer software, office equipment, furniture and fixtures, and $0.4 million for purchases of transportation equipment for field operations. We do not expect the low level of capital expenditures in fiscal 2005 to result in any loss of business. We expect our capital expenditure requirements to increase in fiscal 2006 to approximately $6.5 million.

Restructuring

On March 28, 2005, Bradley S. Vetal resigned from his positions as Chairman of the Board, President and Chief Executive Officer of the Company. Mr. Ed Hendrix, an independent director of the Company since 2000, was elected Chairman of the Board of Directors to replace Mr. Vetal. The Company's Board of Directors appointed Michael J. Hall, then and currently a member of the Board of Directors and formerly the Company's Chief Financial Officer, as the Company's interim President and Chief Executive Officer.

In March 2005, the Company began a restructuring program to reduce its cost structure and improve operating results. This restructuring program included reductions in workforce and changes to business plans including the consolidation or closure of certain facilities or business lines. The Company expects these restructuring efforts to continue into fiscal 2006.

As part of the restructuring efforts, the Company engaged a financial consultant to assist senior management with the following:

- determining short-term and long-term liquidity needs;
- improving forecasting tools;
- providing oversight of all restructuring activities;
- identifying cost reduction and operations improvement opportunities;
- reviewing operating and financial plans and cash flow forecasts at corporate and divisional levels;
- assessing core business, management, policy operations, facilities, equipment and operating practices;
- conducting feasibility analyses in connection with debt restructuring efforts; and
- interfacing with credit constituencies.

Based upon the current status of the senior credit facility described above, total liquidity has been constrained due to shortfalls in operating performance. As a result of the liquidity issues, the Company extended the timing of payments to vendors until the liquidity situation improves. Management has initiated a number of steps to improve the Company's liquidity situation, including the following:

- improving overall operating performance based upon the restructuring efforts currently underway;
- selling certain non-core assets; and
- evaluating alternatives to accelerate collection of amounts due on the contract disputes.

As discussed previously, the current bank group has amended our credit agreement and provided waivers for specified covenant violations. Our revolver availability is based on the lesser of $35 million or 80% of the borrowing base. The net proceeds of the convertible subordinated junior securities were used to retire Term Loan B, which was due in August 2005. The bank group has also provided an incremental $10 million of short-term financing (Revolver B) to provide additional liquidity primarily for trade creditors.

Our current focus is on returning the Company to profitability and refinancing our senior debt. If these efforts are not successful, we cannot assure you that additional financing can be arranged, that we will be able to meet existing debt covenants or that the bank will not foreclose on the Company's assets if a default were to occur under the credit agreement or the convertible notes, or if the Company is unable to repay amounts borrowed under the credit facility on the maturity date. In that event, we would be required to explore other strategic alternatives.

Treasury Shares

In October 2000, the Board of Directors authorized the second stock buyback program, which permitted the purchase of up to 20% (i.e., 3,447,506 shares) of the common stock outstanding at that time. To date, Matrix Service has purchased 2,116,800 shares under the second program and has authorization to purchase an additional 1,330,706 shares.

It is the Company's intent to utilize these purchased treasury shares solely for the satisfaction of stock issuance under the 1990, 1991 and 2004 Incentive Stock Option Plans and the 1995 Nonemployee Director Stock Option Plan.

Commitments

As of May 31, 2005, the following commitments were in place to support our ordinary course obligations:

	Amounts of Commitments by Expiration Period						
	2006	2007	2008	2009	2010	After 2010	Total
	(In Thousands)						
Letters of Credit	$ —	$ —	$ —	$ —	$ —	$ 10,052	$ 10,052
Surety Bonds	16,602	110	—	—	—	6,013	22,725
Total Commitments	$ 16,602	$ 110	$ —	$ —	$ —	$ 16,065	$ 32,777

Note: Includes $5,052 of letters of credit and surety bonds issued in support of our insurance program.

Contractual obligations at May 31, 2005 are summarized below.

	Payments due by Fiscal Year						
	2006	2007	2008	2009	2010	After 2010	Total
	(In Thousands)						
Long-term Debt (1)	$ 42,679	$ —	$ —	$ —	$ —	$ —	$ 42,679
Interest Rate Swap (2)	86	—	—	—	—	—	86
Convertible Notes	—	—	—	—	30,000	—	30,000
Operating Leases	1,359	986	643	131	124	701	3,944
Capital Lease Obligations	120	120	110	29	—	—	379
Acquisition Payable (3)	1,880	1,880	2,819	—	—	—	6,579
Purchase Obligations (4)	—	—	—	—	—	—	—
Total Contractual Obligations	$ 46,124	$ 2,986	$ 3,572	$ 160	$ 30,124	$ 701	$ 83,667

(1) Amendment Ten provides that borrowings under the revolver and the term loan shall bear prime-based interest plus a margin. The agreement further provides for an additional accrued margin that is paid upon termination of the facility. The amendment provides for cash pay interest at a rate of prime plus 1.0% and accrued interest at at 1.0% beginning April 2005 and escalating fifty basis points monthly until December 31, 2005 at which time the accrued margin is 5.0%. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers and the term loan. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31. 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. We were paying a weighted average interest rate of 8.50% on the term loan and the revolver at May 31, 2005. Long-term debt matures $5,804 in fiscal 2006, $24,924 in fiscal 2007 and $11,951 in fiscal 2008. However, the debt was classified as due in fiscal 2006 as it is classified as current on the Consolidated Balance Sheet for the year ended May 31, 2005 due to certain mandatory pre-payment provisions in the credit agreement.

(2) The convertible notes bear interest at a rate of 7% per year. An initial interest pre-payment of $4.2 million was made on April 25, 2005 for the period to and including April 25, 2007. Interest is payable in arrears on each March 31, June 30, September 30 and December 31, beginning on June 30, 2007 through the date of maturity. The acquisition payable is recorded at its present value of $6.0 million in the financial statements. Accretion is recorded based on a 5.1% interest rate.

(3) In the ordinary course of business, we enter into purchase commitments to satisfy our requirements for materials and supplies for contracts that have been awarded. These purchase commitments are generally recovered from our customers, are generally settled in less than one year and are cancelable. We do not enter into long-term purchase commitments on a speculative basis for fixed minimum quantities.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

Our interest rate risk exposure primarily results from our variable rate indebtedness under our senior credit facility, which is influenced by short-term rates, specifically LIBOR-based borrowings. Matrix Service utilizes a $35 million primary revolving credit facility and a secondary $10 million revolving credit facility for which interest-rate swaps are not utilized. Therefore, short-term interest rate changes could have an impact on future interest expense on amounts outstanding on the credit facility. Under our credit agreement, as recently amended, cash pay interest on the term loan and revolver accrues at Prime plus 1.0% and accrued interest at 1.0% beginning April 2005 escalating fifty basis points per month until December 31, 2005 at which time the accrued margin is 5.0%. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers and the term loan. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31, 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. At May 31, 2005, $20.3 million was outstanding on the revolver and $22.4 million was outstanding on the $32.5 million term loan facility. The weighted average interest rate on the term loan and revolver was 8.50%.

In fiscal 2002, the Company entered into an interest rate swap agreement for an initial notional amount of $6.0 million, effectively providing a fixed interest rate of 7.23% with the Company receiving LIBOR + 1.5%. The swap instrument was previously designated as a hedge of a $6.0 million variable interest rate term loan with changes in fair value of the swap recognized in other comprehensive income. The term loan was paid off in connection with the debt refinancing that occurred in March 2003. The swap ceased to be a highly effective hedge and hedge accounting was discontinued prospectively. As the variable rate term loan was replaced with a variable rate credit facility, the forecasted transactions of variable rate interest payments are still probable of occurring. As a result, changes in fair value of the swap are amortized to income over the remaining life of the swap, which expires June 2006. The fair value balance at March 7, 2003 of $0.3 million, net of tax, was included in other comprehensive loss. Approximately $0.1 million of accumulated other comprehensive loss was amortized to interest expense in fiscal 2005. In fiscal 2004, approximately $0.1 million was amortized to interest expense, while approximately $0.1 million was amortized for the period March 7, 2003 to May 31, 2003. In fiscal 2005, the change in the fair value of the swap of a $0.2 million gain was included in interest expense and in fiscal 2004, the gain recognized in interest expense was $0.3 million. From the period March 7, 2003 to May 31, 2003, the change in fair value of the swap of approximately of a $0.03 million gain was included in interest expense.

The following table provides information about our term debt and interest rate swap that is subject to interest rate risk. For term debt, the table presents principal cash flows and weighted-average interest rates by expected maturity dates. For the interest-rate swap, the table presents notional amounts and weighted-average interest rates by contractual maturity dates. Notional amounts are used to calculate the contractual cash flows to be exchanged under the interest rate swap.

	Fiscal Year						
	2006	2007	2008	2009	2010	Total	Fair Value as of May 31, 2005
	(In Thousands)						
Long-term debt:							
Variable rate debt (1)	$42,679	$ —	$ —	$—	$ —	$42,679	$ 42,679
Acquisition payable (2)	1,858	1,858	2,819	—	—	5,977	5,607
Convertible notes (3)	—	—	—	—	30,000	30,000	30,000
Interest rate swap:							
Notional amount	4,433	—	—	—	—	—	86
Pay rate	5.73%	—	—	—	—	—	—
Receive rate – 30-day LIBOR (London Interbank Offer Rate) plus 150 basis points							

(1) Amendment Ten provides that borrowings under the revolver and the term loan shall bear prime-based interest plus a margin. The agreement further provides for an additional accrued margin that is paid upon termination of the facility. The amendment provides for cash pay interest at a rate of prime plus 1.0% and accrued interest at at 1.0% beginning April 2005 and escalating fifty basis points monthly until December 31, 2005 at which time the accrued margin is 5.0%. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers and the term loan. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31. 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. We were paying a weighted average interest rate of 8.50% on the term loan and the revolver at May 31, 2005. Long-term debt matures $5,804 in fiscal 2006, $24,924 in fiscal 2007 and $11,951 in fiscal 2008. However, the debt was classified as due in fiscal 2006 as it is classified as current on the Consolidated Balance Sheet for the year ended May 31, 2005 due to certain mandatory pre-payment provisions in the credit agreement.

(2) Payments included in the table represent the amount the Company is obligated to pay in the respective periods. The Acquisition Payable is recorded at its present value of $6.0 million in the financial statements. Accretion is recorded based on an interest rate of approximately 5.1%.

(3) The Notes were issued under a Securities Purchase Agreement among the Company and certain investors and bear interest at a fixed rate of 7% per year. An initial interest pre-payment of $4.2 million was made on April 25, 2005 for the period to and including April 25, 2007. Interest is payable in arrears on each March 31, June 30, September 30 and December 31, beginning on June 30, 2007, through the date of maturity.

Foreign Currency Risk

Matrix Service has a subsidiary whose operations are located in Canada, whose functional currency is the local currency. Historically, movements in the foreign currency exchange rate have not significantly impacted results. However, this does have the potential to impact the Company’s financial position, due to fluctuations in the local currency arising from the process of translating the local functional currency into the U.S. dollar. Management has not entered into derivative instruments to hedge the foreign currency risk. A 10% change in the respective functional currency against the U.S. dollar would not have had a material impact on the financial results of the Company for the year ended May 31, 2005.

Commodity Risk

Steel and steel pipe are the primary raw materials used by our Construction Services’ and Repair and Maintenance Services’ segments. Supplies of these materials are available throughout the United States. We do not anticipate being unable to obtain adequate amounts of these materials in the foreseeable future. However, the availability and pricing of these materials could change significantly due to various factors, including producer capacity, the level of foreign imports, demand for the materials, the imposition or removal of tariffs on imported steel and other market conditions. We mitigate these risks by including standard language in all of our contracts, which passes the risk of increases in steel prices or unavailability of steel on to our customers.

Item 8. Financial Statements and Supplementary Data

Financial Statements of the Company

Financial Statement Schedules

The following financial statement schedule is filed as a part of this report under "Schedule II" immediately following Quarterly Financial Data (unaudited): Schedule II – Valuation and Qualifying Accounts for the three fiscal years ended May 31, 2005, 2004 and 2003. All other schedules are omitted because they are inapplicable or the required information is shown in the financial statements, or notes thereto, included herein.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

The Management of Matrix Service Company (the "Company") and its wholly-owned subsidiaries is responsible for establishing and maintaining adequate internal control over financial reporting. The Company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles. Internal control over financial reporting includes policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective may not prevent or detect misstatements.

The Company's management assessed the effectiveness of the Company's internal control over financial reporting as of May 31, 2005. In making this assessment, the Company's management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in *Internal Control-Integrated Framework.*

Management's assessment included an evaluation of such elements as the design and operating effectiveness of key financial reporting controls, process documentation, accounting policies, overall control environment and information systems control environment.

A material weakness is a control deficiency, or combination of control deficiencies, that results in a more than remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. We identified the following deficiencies which together constitute a material weakness related to revenue recognition at our Eastern Business Unit in our assessment of the effectiveness of internal control over financial reporting as of May 31, 2005:

- Change orders inappropriately or inaccurately included in or, in certain instances, excluded from, report utilized in our percentage-of-completion computations.
- Job forecasts inadequately prepared and supported or reviewed by appropriate members of project management and financial accounting.
- Preparation of invoices for a material contract lacked appropriate reconciliations to information recorded in the Company's financial accounting system.

The material weakness described above affects the Company's revenue, accounts receivable, cost and estimated earnings in excess of billings on uncompleted contracts and billings on uncompleted contracts in excess of costs and estimated earnings financial statement accounts. Because of the aforementioned deficiencies, which together constitute a material weakness in the revenue recognition process at the Company's Eastern Business Unit, the Company's management has concluded that the Company's internal control over financial reporting as of May 31, 2005 was ineffective.

Management's assessment of the effectiveness of the Company's internal control over financial reporting as of May 31, 2005 has been audited by Ernst & Young LLP, an independent registered public accounting firm ("Ernst & Young") Ernst & Young's report on internal control over financial reporting is included herein.

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders of Matrix Service Company

We have audited management's assessment, included in the accompanying Management's Report on Internal Control over Financial Reporting, that Matrix Service Company did not maintain effective internal control over financial reporting as of May 31, 2005, because of the effect of a material weakness related to revenue recognition at the Company's Eastern Business Unit, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Matrix Service Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. The following material weakness has been identified and included in management's assessment. The Company identified the following ineffective controls which together constitute a material weakness related to revenue recognition at the Company's Eastern Business Unit:

- Change orders were inappropriately or inaccurately included in or, in certain instances, excluded from reports utilized in the Company's percentage of completion computations.
- Job forecasts were inadequately prepared and supported or inadequately reviewed by appropriate members of project management and financial accounting.
- Preparation of invoices for a material contract lacked appropriate reconciliations to information recorded in the Company's financial accounting system.

The material weakness described above affects the Company's revenue, accounts receivable, cost and estimated earnings in excess of billings on uncompleted contracts and billings on uncompleted contracts in excess of costs and estimated earnings financial statement accounts. This material weakness was considered in determining the nature, timing, and extent of audit tests applied in our audit of the 2005 financial statements, and this report does not affect our report dated August 15, 2005 on those financial statements.

In our opinion, management's assessment that Matrix Service Company did not maintain effective internal control over financial reporting as of May 31, 2005, is fairly stated, in all material respects, based on the COSO control criteria. Also, in our opinion, because of the effect of the material weakness described above on the achievement of the objectives of the control criteria, Matrix Service Company has not maintained effective internal control over financial reporting as of May 31, 2005, based on the COSO control criteria.

/s/ Ernst & Young LLP

Tulsa, Oklahoma

August 15, 2005

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders of Matrix Service Company

We have audited the accompanying consolidated balance sheets of Matrix Service Company as of May 31, 2005 and 2004, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended May 31, 2005. Our audits also included the financial statement schedule listed in the index at Item 15. These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Matrix Service Company at May 31, 2005 and 2004, and the consolidated results of its operations and its cash flows for each of the three years in the period ended May 31, 2005, in conformity with U.S. generally accepted accounting principles. Also in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Matrix Service Company's internal control over financial reporting as of May 31, 2005, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated August 15, 2005 expressed an unqualified opinion on management's assessment on internal control over financial reporting and an adverse opinion on the effectiveness of internal control over financial reporting.

/s/ Ernst & Young LLP

Tulsa, Oklahoma

August 15, 2005

Matrix Service Company

Consolidated Balance Sheets

	May 31, 2005	2004
	(In Thousands)	
Assets		
Current assets:		
Cash and cash equivalents	**$ 1,496**	$ 752
Accounts receivable, less allowances (2005 – $461; 2004 – $337)	**70,088**	56,974
Contract dispute receivables, net	**20,975**	31,456
Costs and estimated earnings in excess of billings on uncompleted contracts	**22,733**	18,854
Inventories	**4,739**	4,584
Income tax receivable	**3,004**	3,220
Deferred income taxes	**4,820**	1,493
Prepaid expenses	**8,245**	2,368
Assets held for sale	**1,479**	—
Total current assets	**137,579**	119,701
Property, plant and equipment, at cost:		
Land and buildings	**23,087**	24,518
Construction equipment	**29,711**	31,294
Transportation equipment	**10,862**	12,445
Furniture and fixtures	**8,889**	8,743
Construction in progress	**318**	1,593
	72,867	78,593
Accumulated depreciation	**35,791**	32,939
	37,076	45,654
Goodwill	**24,834**	49,666
Other assets	**2,891**	1,253
Total assets	**$ 202,380**	$ 216,274

Matrix Service Company

Consolidated Balance Sheets

	May 31, 2005	2004
	(In Thousands, Except Share Amounts)	
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	**$ 38,059**	$ 27,528
Billings on uncompleted contracts in excess of costs and estimated earnings	**12,311**	8,115
Accrued insurance	**5,038**	2,152
Other accrued expenses	**15,759**	11,264
Current capital lease obligation	**113**	—
Current portion of long-term debt	**42,765**	4,893
Current portion of acquisition payable	**1,808**	1,835
Total current liabilities	**115,853**	55,787
Long-term debt	**—**	64,209
Convertible notes	**30,000**	—
Acquisition payable	**4,169**	5,614
Long-term capital lease obligation	**231**	—
Deferred income taxes	**4,142**	4,949
Stockholders' equity:		
Common stock – $.01 par value; 30,000,000 authorized; 19,285,276 shares issued as of May 31, 2005 and 2004	**193**	193
Additional paid-in capital	**56,322**	56,101
Retained earnings (deficit)	**(3,307)**	35,585
Accumulated other comprehensive loss	**(22)**	(395)
	53,186	91,484
Less treasury stock, at cost – 1,873,750 and 2,084,950 shares as of May 31, 2005 and 2004, respectively	**(5,201)**	(5,769)
Total stockholders' equity	**47,985**	85,715
Total liabilities and stockholders' equity	**$202,380**	$216,274

See accompanying notes.

Matrix Service Company

Consolidated Statements of Operations

	Year ended May 31,		
	2005	2004	2003
		(In Thousands, Except Share And Per Share Amounts)	
Revenues	**$ 439,138**	$ 607,904	$ 288,418
Cost of revenues	**408,119**	561,591	256,808
Gross profit	**31,019**	46,313	31,610
Selling, general and administrative expenses	**40,335**	28,726	20,448
Impairment and abandonment costs	**26,168**	—	—
Restructuring	**3,654**	68	(1,282)
Operating income (loss)	**(39,138)**	17,519	12,444
Other income (expense):			
Interest expense	**(5,722)**	(2,914)	(990)
Interest income	**2**	29	55
Other	**400**	579	737
Income (loss) before income taxes	**(44,458)**	15,213	12,246
Provision for (benefit from) federal, state and foreign income taxes	**(5,628)**	6,181	4,712
Net earnings of joint venture	**—**	510	644
Net income (loss)	**$ (38,830)**	$ 9,542	$ 8,178
Basic earnings (loss) per common share	**$ (2.24)**	$ 0.57	$ 0.52
Diluted earnings (loss) per common share	**$ (2.24)**	$ 0.54	$ 0.49
Weighted average common shares outstanding:			
Basic	**17,327,484**	16,718,737	15,840,876
Diluted	**17,327,484**	17,615,497	16,710,038

See accompanying notes.

Matrix Service Company

Consolidated Statements of Changes in Stockholders' Equity

(In Thousands, Except Share Amounts)

	Common Stock	Additional Paid-In Capital	Retained Earnings (Deficit)	Treasury Stock	Accumulated Other Comprehensive Income (Loss)		Total
					Translation	Derivative	
Balances, May 31, 2002	$ 193	$ 51,771	$ 18,126	$(8,996)	$ (720)	$ (174)	$ 60,200
Net income	—	—	8,178	—	—	—	8,178
Other comprehensive income							
Translation adjustment	—	—	—	—	442	—	442
Derivative activity	—	—	—	—	—	(115)	(115)
Comprehensive income							8,505
Exercise of stock options (429,192)	—	278	—	817	—	—	1,095
Tax effect of exercised stock options	—	381	—	—	—	—	381
Balances, May 31, 2003	193	52,430	26,304	(8,179)	(278)	(289)	70,181
Net income	—	—	9,542	—	—	—	9,542
Other comprehensive income							
Translation adjustment	—	—	—	—	39	—	39
Derivative activity	—	—	—	—	—	133	133
Comprehensive income							9,714
Exercise of stock options (1,055,570)	—	283	(261)	2,410	—	—	2,432
Tax effect of exercised stock options	—	3,388	—	—	—	—	3,388
Balances, May, 2004	193	56,101	35,585	(5,769)	(239)	(156)	85,715
Net loss	**—**	**—**	**(38,830)**	**—**	**—**	**—**	**(38,830)**
Other comprehensive income							
Translation adjustment	**—**	**—**	**—**	**—**	**283**	**—**	**283**
Derivative activity	**—**	**—**	**—**	**—**	**—**	**90**	**90**
Comprehensive loss							**(38,457)**
Exercise of stock options (211,200)	**—**	**33**	**(62)**	**568**	**—**	**—**	**539**
Tax effect of exercised stock options	**—**	**188**	**—**	**—**	**—**	**—**	**188**
Balances, May 31, 2005	**$ 193**	**$ 56,322**	**$ (3,307)**	**$(5,201)**	**$ 44**	**$ (66)**	**$ 47,985**

See accompanying notes.

Matrix Service Company

Consolidated Statements of Cash Flows

	Year ended May 31,		
	2005	2004	2003
		(In Thousands)	
Operating activities			
Net income (loss)	**$(38,830)**	$ 9,542	$ 8,178
Adjustments to reconcile net income (loss) to net cash provided (used) by operating activities:			
Depreciation and amortization	**6,726**	6,408	5,231
Deferred income tax	**(4,144)**	2,226	346
Impairment of goodwill	**25,000**	—	—
Impairment of fixed assets	**1,168**	—	—
Contract dispute reserve	**10,333**	400	300
(Gain)/loss on sale of equipment	**(382)**	(285)	(30)
Allowance for uncollectible accounts	**562**	—	28
Accretion on acquisition payable	**365**	393	99
Earnings of joint venture	**—**	(857)	(644)
Change in fair value of interest rate swap	**(185)**	(290)	31
Amortization of accumulated loss on interest rate swap	**145**	217	58
Amortization of debt issuance costs	**904**	215	66
Amortization of prepaid interest	**175**	—	—
Changes in operating assets and liabilities increasing (decreasing) cash, net of effects of acquisitions:			
Receivables	**(13,528)**	(20,043)	(10,599)
Costs and estimated earnings in excess of billings on uncompleted contracts	**(3,879)**	4,115	8,869
Inventories	**(155)**	(1,734)	48
Prepaid expenses	**(2,125)**	997	1,176
Accounts payable	**10,530**	(16,392)	17,425
Billings on uncompleted contracts in excess of costs and estimated earnings	**4,196**	(17,186)	(8,539)
Accrued expenses	**7,220**	3,174	(3,502)
Income tax receivable/payable	**404**	907	(1,029)
Other	**16**	94	30
Net cash provided (used) by operating activities	**4,516**	(28,099)	17,542
Investing activities			
Acquisition of property, plant and equipment	**(1,814)**	(4,675)	(16,120)
Acquisition net of cash acquired	**—**	—	(40,137)
Proceeds from sale of exited operations	**—**	—	1,740
Net effect of dissolution of joint venture	**—**	2,738	—
Distributions from joint venture	**—**	701	2,749
Proceeds from asset sales	**1,784**	1,790	152
Net cash provided (used) by investing activities	**(30)**	554	(51,616)

Matrix Service Company

Consolidated Statements of Cash Flows (continued)

	Year ended May 31,		
	2005	2004	2003
		(In Thousands)	
Financing activities			
Issuance of common stock	**$ 539**	$ 2,432	$ 1,476
Advances under bank credit agreement	**166,913**	286,738	172,715
Repayments of bank credit agreement	**(193,065)**	(260,457)	(139,765)
Issuance of convertible notes	**30,000**	—	—
Prepayment of interest on convertible notes	**(4,200)**	—	—
Payment of debt issuance costs	**(2,563)**	(368)	(570)
Capital lease borrowings	**384**	—	—
Capital lease payments	**(40)**	—	—
Repayment of other notes	**(1,745)**	(862)	—
Net cash provided (used) by financing activities	**(3,777)**	27,483	33,856
Effect of exchange rate changes on cash	**35**	39	167
Net decrease in cash and cash equivalents	**744**	(23)	(51)
Cash and cash equivalents, beginning of year	**752**	775	826
Cash and cash equivalents, end of year	**$ 1,496**	$ 752	$ 775
Supplemental disclosure of cash flow information:			
Cash paid (received) during the period for:			
Income taxes	**$ (1,890)**	$ 4,077	$ 3,730
Interest	**8,476**	2,545	715

See accompanying notes.

Matrix Service Company

Notes to Consolidated Financial Statements

Note 1. Summary of Significant Accounting Policies

Organization and Basis of Presentation

The consolidated financial statements include the accounts of Matrix Service Company ("Matrix Service" or the "Company") and its subsidiaries, all of which are wholly owned. Inter-company transactions and balances have been eliminated in consolidation. Effective July 28, 2003, a construction joint venture partnership obtained in the Hake acquisition was dissolved. From the effective date of the dissolution forward, the operations of the joint venture assumed by Matrix Service are included in the Company's results of operations.

The Company operates primarily in the United States and has operations in Canada. The Company's reportable segments are Construction Services and Repair and Maintenance Services.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Reclassification

Certain amounts in the 2003 and 2004 financial statements have been reclassified to conform with the 2005 presentation.

Revenue Recognition

Matrix Service records profits on long-term contracts on a percentage-of-completion basis on the cost-to-cost method. Contracts in process are valued at cost plus accrued profits less billings on uncompleted contracts. Contracts are generally considered substantially complete when field construction is completed. The elapsed time from award of a contract to completion of performance may be in excess of one year. Matrix Service includes pass-through revenue and costs on cost-plus contracts, which are customer-reimbursable materials, equipment and subcontractor costs, when Matrix Service determines that it is responsible for the procurement and management of such cost components on behalf of the customer.

Matrix Service has numerous contracts that are in various stages of completion. These contracts require estimates to determine the appropriate cost and revenue recognition. Matrix Service has a history of making reasonably dependable estimates of the extent of progress towards completion, contract revenues and contracts costs, and accordingly, does not believe significant fluctuations are likely to materialize. However, current estimates may be revised as additional information becomes available. If estimates of costs to complete long-term contracts indicate a loss, provision is made through a contract write-down for the total loss anticipated. A number of our contracts contain various cost and performance incentives and penalties that impact the earnings we realize from our contracts, and adjustments related to these incentives and penalties are recorded in the period when estimable or finalized, which is generally during the latter stages of the contract. Contract incentives are evaluated throughout the life of the contract and are recognized on a percentage-of-completion basis when the likelihood of obtaining the incentive becomes probable.

Indirect costs (such as salaries and benefits, supplies and tools, equipment costs and insurance costs) are charged to projects based upon direct labor hours and overhead allocation rates per direct labor hour. Warranty costs are normally incurred prior to project completion and are charged to project costs as they are incurred. Warranty costs incurred subsequent to project completion were not material for the periods presented. Overhead allocation rates are established annually during the budgeting process and evaluated for accuracy throughout the year based upon actual direct labor hours and actual costs incurred.

Matrix Service records revenue on reimbursable and time and material contracts based on a proportional performance basis as costs are incurred.

Claims Recognition

Claims are amounts in excess of the agreed contract price (or amounts not included in the original contract price) that we seek to collect from customers or others for delays, errors in specifications and designs, contract terminations, change orders in dispute or unapproved as to both scope and price or other causes of anticipated additional costs incurred by us. Recognition of amounts as additional contract revenue related to claims is appropriate only if it is probable that the claims will result in additional contract revenue and if the amount can be reliably estimated. We must determine if:

- there is a legal basis for the claim;
- the additional costs were caused by circumstances that were unforeseen by the Company and are not the result of deficiencies in our performance;
- the costs are identifiable or determinable and are reasonable in view of the work performed; and
- the evidence supporting the claim is objective and verifiable.

If all of these requirements are met, revenue from a claim is recorded only to the extent that we have incurred costs relating to the claim.

Cash Equivalents

The Company includes as cash equivalents all investments with original maturities of three months or less which are readily convertible into cash. The carrying value of cash equivalents approximates fair value. Approximately $0.3 million of cash as of May 31, 2005 and 2004 is restricted for use under an on-going alliance agreement with a customer.

Accounts Receivable

Accounts receivable are carried on a gross basis, less the allowance for uncollectible accounts. The Company grants credit without requiring collateral to customers consisting of the major integrated oil companies, independent refiners and marketers, power companies, petrochemical companies, pipelines, contractors and engineering firms. Although this potentially exposes the Company to the risks of depressed cycles in these industries, our contracts require payment as projects progress or advance payment in some circumstances. In addition, in most cases we can place liens against the property, plant or equipment constructed or terminate the contract if a material contract default occurs. Management estimates the allowance for uncollectible accounts based on existing economic conditions, the financial conditions of the customers and the amount and age of past due accounts. Accounts are written off against the allowance for uncollectible accounts only after all collection attempts have been exhausted.

Contract Dispute Receivables

Contract Dispute Receivables are comprised of accounts receivable and cost and estimated earnings in excess of billings for which settlement is subject to legal proceedings such as mediation, arbitration or litigation. Such proceedings have resulted in delays in obtaining resolution. As a result, the balances are presented separately on the balance sheet at estimated net realizable value based upon the most current information available. Amounts ultimately received may differ from the current estimate.

Loss Contingencies

Various legal actions, claims, and other contingencies arise in the normal course of our business. Contingencies are recorded in the consolidated financial statements, or are otherwise disclosed, in accordance with SFAS No. 5 “Accounting for Contingencies”. Specific reserves are provided for loss contingencies to the extent we conclude their occurrence is both probable and estimable. We use a case-basis evaluation of the underlying data and update our evaluation as further information becomes known.

We believe that any amounts exceeding our recorded accruals should not materially affect our financial position, results of operations or liquidity. However, the results of litigation are inherently unpredictable and the possibility exists that the ultimate resolution of one or more of these matters could result in a material adverse effect on our financial position, results of operations or liquidity.

Legal costs are expensed as incurred.

Inventories

Inventories consist primarily of raw materials and small tools and are stated at the lower of cost or net realizable value. Cost is determined using the first-in, first-out or average cost method.

Depreciation

Depreciation is computed using the straight-line method over the estimated useful lives of the depreciable assets.

Impairment of Long-Lived Assets

The Company evaluates the long-lived assets, including intangibles, for impairment when events or changes in circumstances indicate, in management's judgment, that the carrying value of such assets used in operations may not be recoverable. The determination of whether an impairment has occurred is based on management's estimate of undiscounted future cash flows attributable to the assets as compared to the carrying value of the assets. If an impairment has occurred, the amount of the impairment recognized is determined by estimating the fair value for the assets and recording a provision for loss if the carrying value is greater than fair value.

For assets identified to be disposed of in the future, the carrying value of these assets is compared to the estimated fair value less the cost to sell to determine if an impairment is required. Until the assets are disposed of, an estimate of the fair value is redetermined when related events or circumstances change. In fiscal 2005, the Company evaluated certain long-lived assets for impairment as a result of the Company's liquidity situation and operating results. Impairment charges of $1.2 million, including $0.4 million for impairment of an asset held for sale, were recognized as a result of the impairment evaluations performed.

Purchase Price Allocation

The purchase price for an acquisition is allocated to the net assets acquired based upon their estimated fair values on the date of acquisition. We record the excess of purchase price over fair value of the net assets acquired as goodwill. The fair value of net assets is primarily based upon estimated future cash flows associated with the net assets. Accordingly, our post-acquisition financial statements are materially impacted by and dependent on the accuracy of management's fair value estimates at the time of acquisition. Our experience has been that the most significant of these estimates relate to the values assigned to construction contracts in progress and production backlog. These estimates can have a positive or negative material effect on future reported operating results.

Debt Covenant Compliance

We have certain financial covenants we are required to maintain under our credit facility. In the event of a financial covenant violation that is not appropriately waived by the lenders, or otherwise cured, re-payment of borrowings under the credit facility could be accelerated. Additionally, if a covenant violation has occurred (or would have occurred absent a loan modification), borrowings will be classified as current if it is probable that we will not maintain covenant compliance within the next twelve months. In this event, we are required to develop financial projections that allow us to assess the probability of whether or not we will be in covenant compliance for the subsequent 12-month period from the balance sheet date. Key assumptions utilized in the projections include estimated timing of the award and performance of work, estimated cash flows and estimated borrowing levels. These projections represent our best estimate of our operating results and financial condition for the subsequent 12-month period. As discussed in Note 5, Debt, the current bank group has amended our credit agreement and provided waivers for specified covenant violations.

Goodwill

Goodwill and intangible assets with indefinite useful lives are tested at least annually for impairment. Goodwill represents the excess of the purchase price of acquisitions over the fair value of the net assets acquired. Goodwill is evaluated for impairment by first comparing management's estimate of the fair value of a reporting unit with its carrying value, including goodwill. Reporting units for purposes of goodwill impairment calculations are our reportable segments.

Management utilizes a discounted cash flow analysis to determine the estimated fair value of our reporting units. Judgments and assumptions related to revenue, gross margins, operating expenses, interest, capital expenditures, cash flow and market assumptions are inherent in these estimates. As a result, use of alternate judgments and/or assumptions could result in a fair value that differs from our estimate and ultimately results in the recognition of impairment charges in the financial statements. We utilize various assumption scenarios and assign probabilities to each of these scenarios in our discounted cash flow analysis. The results of the discounted cash flow analysis are then compared to the carrying value of the reporting unit.

If the carrying value of a reporting unit exceeds its fair value, a computation of the implied fair value of goodwill is compared with its related carrying value. If the carrying value of the reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in the amount of the excess. If an impairment charge is incurred, it would negatively impact our results of operations and financial position. We perform our annual analysis during the fourth quarter of each fiscal year and in any other period in which indicators of impairment warrant an additional analysis.

Environmental Costs

Environmental liabilities are recognized when it is probable that a loss has been incurred and the amount of that loss is reasonably estimable. Environmental liabilities are based upon estimates of expected future costs without discounting.

Matrix Service Company

Notes to Consolidated Financial Statements

Insurance Reserves

We maintain insurance coverage for various aspects of our operations. However, we retain exposure to potential losses through the use of deductibles, coverage limits and self-insured retentions. As of May 31, 2005 and May 31, 2004, insurance reserves totaling $5.0 million and $2.2 million, respectively, are reflected on our balance sheet. These amounts represent our best estimate of our ultimate obligations for asserted claims plus claims incurred but not yet reported at the balance sheet date. We establish specific reserves for claims using case-basis evaluations of the underlying claim data and update our evaluations as further information becomes known. Judgments and assumptions are inherent in our reserve accruals; as a result, changes in assumptions or claims experience could result in changes to these estimates in the future. Additionally, the actual results of claim settlements could differ from the amounts estimated.

Income Taxes

Deferred income taxes are computed using the liability method whereby deferred tax assets and liabilities are recognized based on temporary differences between financial statement and tax basis of assets and liabilities using presently enacted tax rates.

Earnings per Common Share

Basic earnings per common share is calculated based on the weighted average shares outstanding during the period. Diluted earnings per share includes the dilutive effect of employee stock options, except when a net loss is recorded. Diluted earnings per share also includes the dilutive effect of convertible debt securities, unless those securities are anti-dilutive. Diluted earnings per share excludes 376,587; 298,422; and 29,083 options as of May 31, 2005, 2004 and 2003, respectively, which were anti-dilutive as the exercise price exceeded the average market price of our common stock for the fiscal years. Diluted earnings per share also excludes up to 6,668,449 shares assuming conversion of convertible debt securities as of May 31, 2005, which were anti-dilutive, as the conversion price exceeded the average market price of our common stock during the period April 22, 2005 to May 31, 2005. However, as the operating results of the Company are a net loss for fiscal year 2005, the dilutive effect of stock options and convertible debt securities is not considered when reporting earnings per share.

Stock Option Plans

Employee stock options are accounted for under Accounting Principles Board Opinion No. 25, “Accounting for Stock Issued to Employees” (APB 25) and related interpretations. Under APB 25, because the exercise price of the Company’s employee stock options equals the market price of the underlying stock on the date of grant, no compensation expense is recognized.

In December 2004, the Financial Accounting Standards Board (FASB) issued revised SFAS No. 123, “Share-Based Payment.” The statement requires that compensation costs for all share-based awards to employees be recognized in the financial statements at fair value. The Statement, as issued by the FASB, was to be effective as of the beginning of the first interim or annual reporting period that begins after June 15, 2005. However, on April 15, 2005, the Securities and Exchange Commission (SEC) adopted a new rule which amends the compliance dates for revised SFAS No. 123. The rule allows for implementation of the Statement at the beginning of the next fiscal year that begins after June 15, 2005. We intend to adopt the revised Statement in the first quarter of fiscal 2007. We are studying the provisions of this new pronouncement to determine the impact on our financial statements.

Pro forma information regarding net income and earnings per share is required by SFAS No. 123 and has been determined as if the Company had accounted for its employee stock options under the fair value method of that Statement. The fair value for these options was estimated at the date of grant using a Black-Scholes option pricing model with the following assumptions:

	2005	2004	2003
Risk-free interest rate	**3.71%**	3.90%	3.09%
Expected volatility	**64.71%**	52.95%	55.13%
Expected life in years	**4.57**	4.83	4.75
Expected dividend yield	**—**	—	—

Matrix Service Company

Notes to Consolidated Financial Statements

The following table illustrates the pro forma effect on net income (loss) and earnings per share as if the Company had applied the fair value recognition provisions of SFAS No. 123 using the Black-Sholes option valuation model with the following assumptions:

	2005	2004	2003
		(In Thousands)	
Net income (loss) as reported	**$(38,830)**	$9,542	$8,178
Pro forma compensation expense from stock options	**(351)**	(487)	(374)
Pro forma (loss) net income	**$(39,181)**	$9,055	$7,804
Earnings (loss) per common share as reported:			
Basic	**$ (2.24)**	$ 0.57	$ 0.52
Diluted	**$ (2.24)**	$ 0.54	$ 0.49
Pro forma earnings (loss) per common share:			
Basic	**$ (2.26)**	$ 0.54	$ 0.49
Diluted	**$ (2.26)**	$ 0.51	$ 0.47

Derivative Instruments and Hedging Activities

All derivatives, which have consisted of interest rate swap agreements, are reflected at their fair value in the Consolidated Balance Sheet. The accounting for changes in the fair value of a derivative depends upon whether it has been designated in a hedging relationship and, further, on the type of hedging relationship. To qualify for designation in a hedging relationship, specific criteria must be met and the appropriate documentation maintained. Hedging relationships are initially and regularly evaluated to determine whether they are expected to be, and have been, highly effective hedges. If a derivative ceases to be a highly effective hedge, hedge accounting is discontinued prospectively and future changes in the fair value of the derivative are recognized in earnings each period. Changes in the fair value of derivatives not designated in a hedging relationship are recognized in earnings each period.

For derivatives designated as a hedge of a forecasted transaction or of the variability of cash flows related to a recognized asset or liability (cash flow hedges), the effective portion of the change in fair value of the derivative is reported in other comprehensive income and reclassified into earnings in the period in which the hedged item affects earnings. Amounts excluded from the effectiveness calculation and any ineffective portion of the change in fair value of the derivative are recognized currently in earnings. Gains or losses deferred in accumulated other comprehensive income associated with terminated derivatives and derivatives that cease to be highly effective hedges remain in accumulated other comprehensive income until the hedged item affects earnings. Forecasted transactions designated as the hedged item in a cash flow hedge are regularly evaluated to assess whether they continue to be probable of occurring. If the forecasted transaction is no longer probable of occurring, any gain or loss deferred in accumulated other comprehensive income is recognized in earnings currently.

Matrix Service entered into interest-rate swap agreements to modify the interest characteristics of its long-term debt. These agreements were designated with all or a portion of the principal balance and term of specific debt obligations. These agreements involved the exchange of amounts based on a fixed interest rate for amounts based on variable interest rates without an exchange of the notional amount upon which the payments are based. The difference to be paid or received is accrued and recognized as an adjustment of interest expense. Gains and losses from terminations of interest-rate swap agreements are deferred and amortized as an adjustment of the interest expense on the outstanding debt over the remaining original term of the terminated swap agreement. In the event the designated debt is extinguished, gains and losses from terminations of interest-rate swap agreements are recognized into income.

Matrix Service Company

Notes to Consolidated Financial Statements

Note 2. Restructuring and Management Plans

Fiscal Year 2005

On March 28, 2005, Bradley S. Vetal resigned from his positions as Chairman of the Board, President and Chief Executive Officer of the Company. Mr. Ed Hendrix, an independent director of the Company since 2000, was elected Chairman of the Board of Directors to replace Mr. Vetal. The Company's Board of Directors appointed Michael J. Hall, then and currently a member of the Board of Directors and formerly the Company's Chief Financial Officer, as the Company's interim President and Chief Executive Officer.

In March 2005, the Company began a restructuring program to reduce its cost structure and improve operating results. This restructuring program included reductions in workforce and changes in business plans including the consolidation and closure of certain facilities or business lines. The Company expects these restructuring efforts to continue into fiscal 2006.

As part of the restructuring efforts, the Company engaged a financial consultant to assist senior management with the following:

- determining short-term and long-term liquidity needs;
- improving forecasting tools;
- providing oversight of all restructuring activities;
- identifying cost reduction and operations improvement opportunities;
- reviewing operating and financial plans and cash flow forecasts at corporate and divisional levels;
- assessing core business, management, policy operations, facilities, equipment and operating practices;
- conducting feasibility analyses in connection with debt restructuring efforts; and
- interfacing with credit constituencies.

During fiscal year 2005, the Company charged $3.7 million of restructuring related costs against earnings. These restructuring charges included employee severance and benefit costs of approximately $1.5 million and $1.6 million of professional fees incurred in connection with the restructuring activities, and $0.6 million of other restructuring costs, primarily related to environmental remediation associated with prior years discontinued operations. The employee severance and benefit costs related to the elimination of approximately 60 employees. These restructuring charges are reflected in their applicable segment in Note 18. "Other" restructuring charges are allocated based on percentage of revenue.

In March 2005, the Company initiated a restructuring program to reduce its cost structure and improve its operating results. The Company focused on its core strengths and identified those areas with the objective of eliminating unprofitable and marginal work. As a result of this effort, Matrix sold the transportation and rigging assets and has executed a letter of intent to sell the aluminum floating roof business. Matrix is also in the process of selling excess facilities or land in Tulsa, Oklahoma; Orange, California; and Holmes, Pennsylvania. These liquidity events, coupled with various tax refunds is expected to yield approximately $12.0 million in cash, which will be used to improve liquidity. Matrix also ceased to work on a number of large routine maintenance contracts that were utilizing valuable resources while providing minimal returns. As these maintenance contracts were reduced, there was a significant reduction of overhead and administration costs. As a result of these efforts and other efforts to reduce costs, Matrix was able to reduce its annual administrative payroll and benefit costs by more than $5.0 million.

During fiscal year 2005, the Company had no operating activities in Brown or San Luis, which were sold in fiscal 2000. The Company increased reserves for worker's compensation, automobile and general liability of $0.1 million and reserves for environmental remediation increased $0.1 million related to liabilities retained from the fiscal 2000 sales of its Brown subsidiary and the coating operation of its San Luis operations.

Fiscal Year 2004

The Company had no operating activities in Brown or San Luis during fiscal 2004. Activity for the year consisted primarily of a $1.3 million reduction of the restructuring accrual recorded in the initial allocation of the Hake purchase price and payment of $0.1 million of severance payments. In addition, reserves for workers' compensation, automobile and general liability claims increased $0.1 million.

Matrix Service Company

Notes to Consolidated Financial Statements

Fiscal Year 2003

The Company had no operating activities in Brown or San Luis during fiscal 2003. Activity for the year ended May 31, 2003 consisted of a decrease in reserves for worker's compensation, automobile and general liability of $0.3 million and a $1.5 million accrual was established for estimated restructuring charges in connection with the Hake acquisition.

As a result of these restructuring and exited operations, the Company recorded the following:

	Employee Severance Benefits	Consulting Fees	Hake Acquisition	Environmental	Other Reorganization Costs	Total
			(In Thousands)			
Liability Balance at May 31, 2002	$ —	$ —	$ —	$ 92	$ 334	$ 426
Charge (credit) to Income	—	—	—	—	(282)	(282)
Hake Acquisition	—	—	1,500	—	—	1,500
(Payment) receipt	—	—	—	(75)	102	27
Liability Balance at May 31, 2003	—	—	1,500	17	154	1,671
Charge to income	—	—	—	—	68	68
Hake Acquisition adjustment	—	—	(1,296)	—	—	(1,296)
(Payment) receipt	—	—	(87)	(17)	(30)	(134)
Liability Balance at May 31, 2004	—	—	117	—	192	309
Charge to income	1,479	1,607	—	217	351	3,654
(Payment) receipt	(587)	(1,182)	(117)	(142)	(76)	(2,104)
Liability Balance at May 31, 2005	$ 892	$ 425	$ —	$ 75	$ 467	$ 1,859

Note 3. Property Sales and Assets Held for Sale

On May 2, 2005, Matrix Service executed an agreement to sell various rigging and transportation equipment for net proceeds of approximately $1.5 million, resulting in a gain of approximately $0.4 million.

In fiscal 2004, the Company sold a fabrication facility and office located in Oklahoma for net proceeds of $1.7 million. The facility was utilized by the Company prior to the completion in early 2003 of its new fabrication facility located at the Port of Catoosa, Tulsa, Oklahoma. The sale resulted in a gain of $0.1 million.

Assets Held for Sale

As part of the Company's restructuring efforts, we have evaluated our current properties and determined that certain of these properties are expendable under the current business plan. These properties include land located in Orange, California, and land and building that previously housed a fabrication facility in Tulsa, Oklahoma. The Company recorded an impairment charge of $0.4 million in fiscal 2005 related to the fabrication facility which is included in Impairment and Abandonment Costs. The carrying value of these properties at May 31, 2005 was $0.8 million and $0.7 million, respectively. The Orange, California land and Tulsa fabrication facility are reflected as current assets held for sale on the Consolidated Balance Sheet. On June 24, 2005, Matrix Service executed an agreement to sell the fabrication facility in Oklahoma for an amount equal to its recorded value.

The land and building used as the Company's current Corporate facility in Tulsa, Oklahoma has also been classified as held for sale as a result of the Company's restructuring efforts. The Company anticipates executing a sale-leaseback transaction for this facility. The carrying value of the facility at May 31, 2005 was $0.8 million and is reflected in Other Assets on the Consolidated Balance Sheet.

All assets held for sale are reflected in the Company's "other" segment in Note 18.

Note 4. Goodwill Impairment

The Company performs an annual goodwill impairment review in the fourth quarter of every year. In addition, the Company performs a goodwill impairment review whenever events or changes in circumstances indicate the carrying value may not be recoverable, such as the liquidity issues and operating results the Company is currently experiencing.

As a result, the Company performed a goodwill impairment test as of February 28, 2005. The process of evaluating the impairment of goodwill is highly subjective and requires significant judgment. Fair value of the reporting units was determined based on the probability-adjusted present value of future cash flows. A preliminary impairment charge of $25 million was recorded for the Construction Services segment in the quarter ended February 28, 2005 and is reflected in "Impairment and Abandonment" on the Consolidated Statements of Operations. The Company recorded no goodwill impairment charges associated with the Repair and Maintenance Services segment in fiscal year 2005. Repair and Maintenance revenues increased year over year, while operating profit decreased as a result of increased overhead absorption. The cash flow assumptions were based on the best available information, but such information was considered preliminary due to the Company's current liquidity situation and restructuring efforts. The impairment evaluation was completed in the fourth quarter of fiscal 2005, resulting in no additional impairment charges.

The changes in the carrying amount of goodwill for the fiscal years ended May 31, 2003, 2004 and 2005 by segment follow:

	Construction Services	Repair and Maintenance Services	Total
		(In Millions)	
Balance at May 31, 2002	$ 3,971	$ 6,958	$ 10,929
Acquisition of Hake Group, Inc.	28,112	12,048	40,160
Translation adjustment	—	203	203
Balance at May 31. 2003	32,083	19,209	51,292
Purchase price adjustment – acquisition of Hake Group, Inc.	(1,142)	(490)	(1,632)
Translation adjustment	—	6	6
Balance at May 31, 2004	30,941	18,725	49,666
Impairment Charge	**(25,000)**	**—**	**(25,000)**
Translation adjustment	**—**	**168**	**168**
Balance at May 31, 2005	**$ 5,941**	**$ 18,893**	**$ 24,834**

Note 5. Debt

Our debt consisted of the following:

	May 31, 2005	May 31, 2004
	(In Thousands)	
Borrowings under bank credit facility:		
Revolving credit facility	$ 20,281	$ 40,390
Term note	22,398	28,441
Interest rate swap liability	86	271
Convertible Notes	30,000	—
	72,765	69,102
Less current portion:		
Revolving credit facility	20,281	—
Term note	22,398	4,643
Interest rate swap liability	86	250
Long-Term Debt	$ 30,000	$ 64,209

Credit Agreement and Revolving Credit Facility

On March 7, 2003, we replaced our prior credit agreement with an $87.5 million senior credit facility entered into with a group of banks. The credit agreement originally consisted of a five-year term loan of $32.5 million and a three-year $55 million revolving credit facility. Substantially all of our properties and assets and those of our domestic subsidiaries secure the senior credit facility. Under the original agreement, we paid LIBOR-based interest on funds borrowed under the term loan and funds borrowed on a revolving basis bore interest on a Prime or LIBOR-based option.

In August 2004, the senior credit facility was amended to convert $20 million of the revolver balance to a term loan (Term Loan B) and to reduce the credit commitment on the revolver by an equal amount from $55 million to $35 million. The facility was further amended in December 2004 to provide that interest on Term Loan B would accrue at a 12.5% per annum fixed rate from November 30, 2004 until March 31, 2005, when the interest rate increased to an 18% per annum fixed rate. The interest rate was scheduled to further increase to a 21% per annum fixed rate on June 30, 2005.

In April 2005, the Company issued $30.0 million of convertible debt notes and Term Loan B was paid in full. At that time, the credit agreement was amended to limit availability under the primary revolver to the lesser of $35 million or 80% of the borrowing base. The amendment also established a $10 million revolving loan B commitment. The revolving loan B commitment bears cash interest at prime, had an original maturity of October 31, 2005 and is secured by various contract dispute receivables. Availability under the commitment is limited to $10 million less an amount equal to the value of all of our outstanding checks. The revolving loan B commitment will be further reduced by an amount equal to any funds collected with respect to "large disputed accounts." In addition, the revolving B borrowing base and, consequently, the revolving B loan commitment, may be decreased by the revolver B lenders in their sole discretion.

In August 2005, the senior credit facility was amended (Amendment Ten) to extend both revolving loan commitments to June 30, 2006.

Our credit agreement requires us to make mandatory prepayments in certain circumstances, including upon the sale of certain assets in excess of $250,000, the sale of stock or the issuance of subordinated indebtedness, or in the event that we generate “excess cash,” incur a borrowing base deficiency or collect contract dispute receivables.

Amendment Ten to our credit agreement modified the required financial covenants. Under Amendment Ten, we are required to maintain minimum levels of “augmented consolidated EBITDA” for various quarterly test periods through May 31, 2006 as of designated quarterly test dates. The starting point for the augmented consolidated EBITDA is “consolidated EBITDA”, which is defined to include “consolidated net income,” plus, to the extent deducted in determining consolidated net income, (i) consolidated interest expense (ii) expense for taxes paid or accrued, (iii) depreciation and amortization, (iv) up to $3,000,000 in the aggregate of the following: (A) (1) specifically defined professional and consulting fees (2) other expenses related to the reorganization of Borrower’s fabrication operation, (3) lease termination cost arising from the termination of leases occurring as a part of and during the restructure, and (4) costs and expenses related to the search for a replacement Chief Executive Officer but only to the extent paid or incurred on or before November 30, 2005; (B) severance payments and retention bonuses associated with restructuring; (C) legal fees and legal expenses incurred with regard to the enforcement and collection of the large disputed accounts; (D) losses on sales of fixed assets approved by the lenders and incurred prior to November 30, 2005; and (E) losses arising from the settlement of large disputed accounts minus, to the extent included in consolidated net income, (i) gains on sales of fixed assets, (ii) extraordinary gains realized other than in the ordinary course of business, and (iii) income tax benefits. The minimum level of augmented consolidated EBITDA for each quarterly test period is as follows:

Test Periods	Minimum Augmented Consolidated EBITDA	Test Date
June 1, 2005 through August 31, 2005	$ 4,135,000	September 30, 2005
June 1, 2005 through November 30, 2005	$ 7,493,000	December 31, 2005
June 1, 2005 through February 28, 2006	$ 10,651,000	March 31, 2006
June 1, 2005 through May 31, 2006	$ 15,302,000	June 30, 2006

For purposes of determining compliance with this covenant, “consolidated EBITDA” is increased by an amount equal to the lesser of (i) $3,000,000 or (ii) the sum of the following: (A) if one or more sales of assets approved by the lenders has occurred, then the aggregate for all such sales of the following: the amount, if any, by which (1) an amount equal to the Borrowing Base immediately after the closing of such sale minus the aggregate principal balance of the Revolving Loans measured immediately after the application of such proceeds exceeds; (2) an amount equal to the Borrowing Base immediately prior to the closing of such sales minus the aggregate principal balance of the Revolving Loans measured immediately prior to the application of such proceeds; (B) federal and state tax refunds received during such period less the amount of any taxes paid; (C) reimbursements received during such period from customers for capital expenditures associated with the LNG project to the extent that, during the same period, such capital expenditures actually occurred; and (D) cash proceeds received during such period from the sale of any common stock, preferred stock, warrant or other equity (other than the exercise of stock options by employees, officers and directors) approved by the lenders and from the issuance of any subordinated indebtedness approved by the lenders.

Amendment Ten also requires us to maintain a minimum fixed charge coverage ratio of augmented consolidated EBITDA for the fiscal year to date minus cash dividends and distributions made or paid during the period to scheduled current maturities of the term loan for the fiscal year to date, plus scheduled current maturities of the Hake Group acquisition payable for the fiscal year to date, plus consolidated interest expense for the year to date (excluding amounts included in consolidated interest expense for (1) amortization of deferred financing fees (2) amortization of prepaid interest related to the subordinated debt, (3) accretion related to The Hake Group acquisition payable, and (4) interest attributable to the additional accrued margin that is neither paid for nor due and payable during the fiscal year to date, plus current maturities on capitalized leases for the fiscal year to date and capital expenditures paid during such fiscal year to such date. The ratio at each quarterly measurement date shall be less than 1.00.

Amendment Ten also requires us to maintain a minimum debt service coverage ratio of consolidated EBITDA for the fiscal year to date minus cash dividends and distributions during the period to scheduled current maturities of the term loan for the fiscal year to date, plus scheduled current maturities of the Hake Group acquisition payable for the fiscal year to date, plus consolidated interest expense for the year to date (excluding amounts described above), plus current maturities on capitalized leases for the fiscal year to date. The required debt service coverage ratio is 1.43 for the period ended August 31, 2005, 1.65 for the period ending November 30, 2005, 1.65 for the period ending February 28, 2006 and 1.38 for the period ending May 31, 2006.

Amendment Ten provides that borrowings under the revolver and the term loan shall bear prime-based interest plus a margin. The agreement further provides for an additional accrued margin that is paid upon termination of the facility. The amendment provides for cash pay interest at a rate of prime plus 1.0% and accrued interest at at 1.0% beginning April 2005 and escalating fifty basis points monthly until December 31, 2005 at which time the accrued margin is 5.0%. Beginning January 1, 2006 to January 31, 2006, cash pay interest converts to prime plus 3.5% with accrued interest at 3.5% on both revolvers and the term loan. Beginning February 1, 2006 to February 28, 2006, cash pay interest converts to prime plus 4.75% with accrued interest at 2.5% on both revolvers. Beginning March 1, 2006 to March 31. 2006, cash pay interest converts to prime plus 6.0% with accrued interest at 1.5% on both revolvers. After April 1, 2006, cash pay interest converts to prime plus 8.25% on both revolvers. We were paying a weighted average interest rate of 8.50% on the term loan and the revolver at May 31, 2005.

On August 10, 2005, the lenders executed a waiver which modified the required covenants at May 31, 2005 to require (i) Consolidated EBITDA (as defined) to be greater than or equal to $2,596,000 and (ii) a Fixed Charge Coverage Ratio (as defined) to be greater than or equal to 0.925.

The following table presents the required and actual financial covenant measures in effect as of May 31, 2005:

Fixed Charge Ratio	
Minimum Ratio Required	0.925
Actual Ratio	0.966
Excess / (Shortfall)	0.041
EBITDA (in thousands)	
Minimum EBITDA Required	$ 2,596
Actual EBITDA	2,903
Excess / (Shortfall)	$ 307

At May 31, 2005, $20.3 million was outstanding under the revolver and $22.4 million was outstanding under the five-year term loan. There were no borrowings under Revolver B. In addition, $10.0 million of the revolver was utilized by outstanding letters of credit, which automatically renew annually. At May 31, 2005, remaining availability under the credit facility consisted of $4.7 million available under the primary revolver and $7.7 million under Revolver B. At August 12, 2005, availability under our primary revolver was $10.6 million and $7.7 million under Revolver B.

The credit agreement also limits our capital expenditures to $9 million annually, limits unsecured indebtedness we may borrow for general operating purposes to $1 million, limits capital lease obligations to $15 million and limits the amount of letters of credit we may have outstanding to $15 million.

Although our credit agreement provides us with sufficient liquidity for the upcoming fiscal year, the revolving loan B and the $35 million revolver expire on June 30, 2006. Furthermore, revolving loan B may be reduced at the lenders sole discretion. While we are currently working to obtain a new credit facility, we cannot assure you that our efforts will be successful. In addition, the failure to comply with the terms of our credit agreement has required us to incur significant fees to our lenders to obtain waivers and amendments and caused us to seek alternative financing. Without acceptable waiver or amendments from our lenders with respect to any future covenant violations or alternative financing on terms acceptable to us, our lenders would have the right, among others, to declare all amounts outstanding under the credit agreement to be immediately due and payable and foreclose upon and sell substantially all of our assets to repay such amounts.

In March 2005, the Company initiated a restructuring program to reduce its cost structure and improve its operating results. The Company focused on its core strengths and identified areas with the objective of eliminating unprofitable and marginal work. As a result of this effort, Matrix sold the transportation and rigging assets and has executed a letter of intent to sell the aluminum floating roof business. Matrix is also in the process of selling excess facilities or land in Tulsa, Oklahoma; Orange, California; and Holmes, Pennsylvania. These liquidity events, coupled with various tax refunds is expected to yield approximately $12.0 million in cash, which will be used to improve liquidity. Matrix also ceased to work on a number of large routine maintenance contracts that were utilizing valuable resources while providing minimal returns. As these maintenance contracts were reduced, there was a significant reduction of overhead and administration costs. As a result of these efforts and other efforts to reduce costs, Matrix was able to reduce its annual administrative payroll and benefit costs by more than $5.0 million.

The credit facility provides for mandatory prepayments upon the occurrence of certain events, certain of these events are expected to occur in fiscal 2006, therefore, we have classified the credit facility as current. If these events do not occur, the scheduled aggregate maturities of long-term debt for the years ending May 31, are as follows – 2006—$5.8 million; 2007—$24.9 million and 2008—$12.0 million.

The carrying value of debt approximates fair value.

The Company did not capitalize any interest in 2005 or 2004, while $0.3 million was capitalized in 2003.

Note 6. Convertible Debt

In connection with the private placement of $30 million of convertible notes, on April 22, 2005, we entered into a registration rights agreement. The registration rights agreement requires us to use our best efforts to keep our registration statement, covering the resale of the shares of our common stock issuable upon conversion of the convertible notes, continuously effective until the earlier of (a) the date on which all of our common stock covered by such registration statement has been sold or may be sold without volume restrictions pursuant to Rule 144(k) under the Securities Act of 1933, as amended, or (b) the fifth anniversary of the closing date. Although the Registration Statement was declared effective by the SEC on June 17, 2005, if we fail to satisfy our obligations under the registration rights agreement, we will owe the holders of the convertible notes as partial liquidated damages an amount in cash equal to 1% of the aggregate amount paid for the convertible notes for each such event, and thereafter on each monthly anniversary of each such event (if the applicable failure shall not have been cured by such date) until the applicable failure is cured, we will owe the note holders an amount in cash equal to an additional 1% of the aggregate amount paid for the convertible notes. The convertible notes are convertible into shares of the Company’s common stock at an initial conversion price of $4.69 per share, subject to adjustment for stock dividends, stock splits, or other matters as provided for in the securities purchase agreement.

The convertible notes were issued under a securities purchase agreement among the Company and certain investors, and bear interest at a rate of 7% per year. An initial interest pre-payment of $4.2 million was made on April 25, 2005 for the period to and including April 25, 2007. Prepaid interest of $1.9 million is included in prepaid assets and $2.1 million in other assets at May 31, 2005. Interest is payable in arrears on each March 31, June 30, September 30 and December 31, beginning on June 30, 2007, through the date of maturity. In addition, if we fail to refinance our credit facility prior to September 30, 2005, additional interest of 5.00% per annum will accrue and be added to the principal balance of our convertible notes beginning October 1, 2005 and until our credit facility is refinanced.

The securities purchase agreement requires us to maintain certain financial ratios, limits the amount of capital and operating leases we can enter into, limits the amount of additional borrowings we may incur, and limits the amount of purchase money financing we may enter into.

Financial ratios contained in the securities purchase agreement are as follows:

- Commencing fifteen months from the closing date and so long as any of the convertible notes are outstanding, a leverage ratio not to exceed 4.25 to 1.0. The leverage ratio is calculated as the ratio of total debt as of any date to EBITDA for the period of four consecutive fiscal quarters ending on, or most recently before, such date. EBITDA is defined as consolidated net income plus, to the extent deducted in determining consolidated net income, (i) consolidated interest expense, (ii) expense for taxes paid or accrued, (iii) depreciation, amortization and other non-cash charges, including non-cash charges related to the implementation of the Company’s restructuring plan, and cash charges for professional fees associated therewith, (iv) losses on sale of fixed assets, and (v) extraordinary losses incurred other than in the ordinary course of business, minus, to the extent included in consolidated net income, (i) gains on sales of fixed assets, and (ii) extraordinary gains realized other than in the ordinary course of business, all calculated for the Company and its subsidiaries on a consolidated basis for the then most recently ended four fiscal quarters.
- From fifteen months from the closing date until the second anniversary of the closing date for the convertible notes, a cash interest coverage ratio, which must at all times exceed 2.5 to 1. The cash interest coverage ratio is calculated as the ratio of (i) EBITDA for the then most recently ended fiscal four quarters to (ii) “cash interest expense” for such period. The term “cash interest expense” includes interest expense of the Company and its subsidiaries for such period (excluding interest expense that has been capitalized and not paid in cash), determined on a consolidated basis in accordance with GAAP.
- After the second anniversary of the closing date for the convertible notes, an “interest coverage ratio,” which must at all times exceed 2.5 to 1.0. The interest coverage ratio is calculated as the ratio of EBITDA for a period of the four consecutive fiscal quarters to (ii) interest expense for such period. The term “interest expense” includes interest expense of the Company and its subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

The securities purchase agreement also limits the amount of senior obligations permitted under the senior credit facility or the refinancing or replacement thereof, including new and replacement letters of credit, to $90 million; limits capital lease obligations to $1 million, limits operating leases to $15 million, limits purchase money financing to $1 million and limits debt under the Company’s performance and bonding line to $150 million.

Matrix Service Company

Notes to Consolidated Financial Statements

Note 7. Acquisition

On March 7, 2003, Matrix Service acquired 100% ownership interests in Hake Group, Inc. and its subsidiaries ("Hake"). Also included in the acquisition was a 50% membership interest in Ragner Hake, LLC, a construction joint venture. Effective July 28, 2003, the construction joint venture was dissolved. From the effective date of the dissolution forward, the operations of the joint venture assumed by Matrix Service are included in Matrix Service's results of operations. Hake's operating results have been included in Matrix Service's consolidated financial statements since the acquisition date.

The acquisition was accounted for by the purchase method, and the purchase price of $53.1 million was allocated to the assets acquired and liabilities assumed, based upon the estimated fair values of these assets and liabilities at the date of acquisition. The original purchase price of $54.0 million was reduced to $53.1 million primarily as a result of working capital adjustments to the purchase price contained in the acquisition agreement. The allocation of the purchase price to specific assets and liabilities was based, in part, upon outside appraisals of the fair value of Hake's property, plant, equipment, and identifiable assets. The Company initially recorded an accrual for estimated restructuring charges primarily related to provisions for costs of redundant facilities and functions. The restructuring plan was completed without significant reduction of facilities resulting in a reduction of $1.3 million to the initial restructuring accrual of $1.5 million and a corresponding decrease to goodwill in fiscal 2004.

The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of the acquisition after giving effect to the working capital adjustments to the purchase price and the reduction to the initial restructuring accrual:

	At March 7, 2003
	(in thousands)
Current Assets	$ 50,852
Property, Plant and Equipment	5,637
Intangible Assets	100
Goodwill	38,528
Total Assets acquired	95,117
Current Liabilities	40,717
Restructuring Accrual	204
Non-current Liabilities	1,075
Total Liabilities assumed	41,996
Net Assets acquired	$ 53,121

The original goodwill of $38.5 million represents the excess of the purchase price paid over the estimated fair value of the net assets at the date of acquisition. Management allocated $27.0 million of goodwill to the Construction Services segment and $11.5 million to the Repair and Maintenance segment based upon the estimated volume of business to be generated by the respective reporting units. See Note 4 regarding a goodwill impairment charge incurred in fiscal 2005.

The following table presents unaudited pro forma results of operations including the acquisition of Hake during 2003 as if this acquisition had occurred at the beginning of fiscal 2003. The unaudited pro forma results of operations are not necessarily indicative of the results of operations had the acquisition actually occurred at the beginning of fiscal 2003, nor is it necessarily indicative of future operating results.

	Fiscal 2003
	(In Thousands, Except Per Share Amounts)
Revenues	$ 420,201
Operating income	20,666
Interest (expense) income, net	(3,275)
Income before income taxes	17,228
Net income	10,503
Basic earnings per share	0.66
Diluted earnings per share	0.63

Note 8. Acquisition Payable

As part of the purchase of the Hake group of companies in Fiscal 2003, the Company entered into an acquisition payable for a portion of the purchase price. The acquisition payable is recorded at $6.0 million at May 31, 2005 and accreted for the change in its present value each period utilizing a 5.1% effective interest rate. Payments related to the acquisition payable are due annually on March 7 with $1.9 million due annually in 2006 and 2007, and $2.8 million due in 2008.

Pursuant to the purchase agreement, the former shareholders of Hake agreed, jointly and severally, to indemnify Matrix Service for damages it suffers due to breaches of representations and warranties made by the shareholders with respect to, among other things, its employee benefit plans; the ownership, use and condition of its assets and the performance by Hake of its contractual obligations and its obligations under applicable laws, including employment and environmental laws. As to these matters, Matrix Service may recover its damages only if its claims for damages are made by March 7, 2008, the amount of damages claimed as to any single event exceeds a de minimus amount of $10,000, and only after the aggregate amount of all such claims, excluding de minimus claims, exceeds $250,000. In order to better assure the payment to Matrix Service of any claims by it for indemnity, $10 million of the purchase price for Hake was withheld in the form of a deferred purchase price payable to the former shareholders or their designee. Upon final determination that a claim for indemnity is proper, the amount of the claim can be deducted by Matrix Service from the deferred payments of the purchase price. The remaining deferred purchase obligations to be paid in the future total approximately $6.6 million. Since the purchase date on March 7, 2003, Matrix Service claims have not exceeded $250,000, and thus no adjustment to the deferred purchase price has been made related to indemnifications by the former shareholders of Hake prior to March 2005.

Matrix Service Company

Notes to Consolidated Financial Statements

Note 9. Uncompleted Contracts

Contract terms of the Company's construction contracts generally provide for progress billings based on completion of certain phases of the work. The excess of costs incurred and estimated earnings recognized for construction contracts over amounts billed on uncompleted contracts is reported as a current asset and the excess of amounts billed over costs incurred and estimated earnings recognized for construction contracts on uncompleted contracts is reported as a current liability as follows:

	May 31,	
	2005	**2004**
	(In Thousands)	
Costs incurred and estimated earnings recognized on uncompleted contracts	**$ 560,378**	$ 532,953
Billings on uncompleted contracts	**549,956**	522,214
	$ 10,422	$ 10,739
Shown on balance sheet as:		
Costs and estimated earnings in excess of billings on uncompleted contracts	**$ 22,733**	$ 18,854
Billings on uncompleted contracts in excess of costs and estimated earnings	**12,311**	8,115
	$ 10,422	$ 10,739

Approximately $3.5 million and $4.8 million of accounts receivable at May 31, 2005 and 2004, respectively, relate to billed retainages under contracts.

Note 10. Income Taxes

The components of the provision for (benefit from) income taxes are as follows:

	Fiscal 2005	**Fiscal 2004**	**Fiscal 2003**
		(In Thousands)	
Current:			
Federal	**$ (1,660)**	$ 3,188	$ 3,751
State	**89**	1,002	497
Foreign	**87**	112	118
	(1,484)	4,302	4,366
Deferred:			
Federal	**(4,083)**	1,898	669
State	**(70)**	298	99
Foreign	**9**	30	7
	(4,144)	2,226	775
	$ (5,628)	$ 6,528	$ 5,141

The provision for income taxes for the years ended May 31, 2004 and 2003 included $347 and $429, respectively, of taxes related to net earnings of joint venture.

Matrix Service Company

Notes to Consolidated Financial Statements

The difference between the expected income tax provision applying the domestic federal statutory tax rate and the reported income tax provision is explained as follows:

	Fiscal 2005	Fiscal 2004	Fiscal 2003
		(In Thousands)	
Expected provision (benefit) for Federal income taxes at the statutory rate	**$(15,560)**	$ 5,625	$ 4,482
State income taxes, net of Federal benefit	**(2,867)**	838	663
Charges without tax benefit	**10,266**	86	14
Valuation allowance	**2,520**	—	—
Other	**13**	(21)	(18)
Provision for income taxes	**$ (5,628)**	$ 6,528	$ 5,141

Significant components of the Company's deferred tax liabilities and assets as of May 31, 2004 and 2003 are as follows:

	May 31,	
	2005	2004
	(In Thousands)	
Deferred tax liabilities:		
Tax over book depreciation	**$ 4,114**	$ 5,474
Other – net	**408**	365
Total deferred tax liabilities	**4,522**	5,839
Deferred tax assets:		
Bad debt reserve	**3,743**	414
Foreign insurance dividend	**132**	132
Vacation accrual	**62**	123
Noncompete amortization	**206**	260
Interest rate swap derivative	**34**	165
Net operating loss benefit and credit carryforwards	**5,139**	3,905
Valuation allowance	**(5,139)**	(2,619)
Accrued losses	**458**	—
Accrued restructuring costs	**277**	—
Other – net	**288**	3
Total deferred tax assets	**5,200**	2,383
Net Deferred Tax Asset (Liability)	**$ 678**	$(3,456)

In connection with the acquisition of Hake (see Note 7), the Company acquired the tax benefits of federal and state operating losses and credit carryforwards in the amount of $3.6 million, of which $1.8 million was reserved. The utilization of a portion of the loss carryforwards is subject to annual limitations. The portion of any reversal of the reserves against the value of the tax benefit of the acquired net operating losses will be allocated to reduce goodwill. In fiscal 2005, none of the operating loss and credit carryforwards were utilized and the future utilization of the operating losses and credit carryforwards became doubtful. Therefore, the remaining balance of these benefits was fully reserved in fiscal 2005. In fiscal 2005, there were additional net operating loss and credit carryovers generated. The state tax benefit carryovers generated in fiscal 2005 are subject to limitations and their future utilization is doubtful. Therefore, these benefits have also been fully reserved in fiscal 2005. If all or a portion of the reserves established against the tax benefits generated in fiscal 2005 are reversed in the future, that year's tax provision will be impacted. The loss carryforwards, including loss carryforwards generated prior to the acquisition of Hake, expire between 2017 and 2023.

Matrix Service Company

Notes to Consolidated Financial Statements

Note 11. Contingencies

Insurance Reserves

The Company maintains workers' compensation employer's liability insurance, with statutory limits; general liability insurance and auto liability insurance in the primary amount of $1.0 million per occurrence; contractor's pollution liability insurance in the amount of $10.0 million per occurrence; and pollution legal liability for owned and leased properties in the amount of $2.0 million per occurrence. The Company has deductibles or self-insured retentions in the amount of $10,000 for damage to owned or leased properties; $0 for workers' compensation, $100,000 for general liability, $0 for auto liability, $50,000 for contractor's pollution liability and $25,000 for pollution legal liability. Matrix Service also maintains an umbrella policy with coverage limits of $25.0 million per project, policies to cover our equipment and other property with coverage limits of $10.0 million per occurrence, and policies for construction with coverage limits of $16.0 million per project. Most policies provide for coverage on an occurrence basis rather than a "claims made" basis. Matrix maintains a performance and payment bonding line of $5.0 million. If we are unable to provide performance bonds for our projects, we may have less success in obtaining new work.

For claims not fully insured, management estimates the reserve for self-insurance retention based on knowledge of the circumstances surrounding the claims, the nature of any injuries involved, historical experience and estimates of future costs provided by certain third parties. Changes in the assumptions underlying the accrual could cause actual results to differ from the amounts reserved.

Legion Insurance Dispute

Matrix Service, as plaintiff, is currently in litigation in the Tulsa County District Court in the State of Oklahoma over matters arising out of a workers' compensation program with a former insurance provider. These matters involve contests over a letter of credit ("LC") for $2.2 million, a bond for $2.1 million and a deposit of $0.6 million pledged to secure Matrix Service's obligations under this prior program. As a part of its insurance program with Legion Insurance Company ("Legion"), Legion used an offshore insurance company, Mutual Indemnity ("Mutual"), which was domiciled in Bermuda. Matrix Service purchased preferred stock in Mutual, which then reinsured part of the workers' compensation exposure that was underwritten by Legion. Matrix Service assumed the first $250,000 of any occurrence involving injury to Matrix Service employees. If there was an occurrence, Legion would process and pay all claims for all Matrix Service employees injured in that occurrence. On a monthly basis, Legion would then be reimbursed by Mutual for the actual claim payments made, up to $250,000 per occurrence. Matrix Service would then reimburse Mutual for the amount of the claims paid by Legion during that month.

Matrix Service funded two escrow accounts, one of which was used to administer individual claims and the other of which acted as a working escrow account to reimburse Mutual. Mutual's insurance regulators also required Matrix Service to post an LC for $2.2 million and a surety bond in the amount of $2.1 million as security for its potential future claim payment liability.

On April 1, 2002, the Insurance Commissioner for the State of Pennsylvania placed Legion into rehabilitation. Matrix Service was concerned that the security held by Mutual would be commingled with other shareholder assets and not used exclusively to pay Matrix Service claims. Matrix Service filed suit in the Tulsa County district court to require a full accounting of all funds held by Mutual and restrain Mutual from drawing on the LC or surety bond. The court granted a temporary restraining order prohibiting the use of such assets for the payment of claims other than Matrix Service claims.

On July 25, 2003, a Pennsylvania court placed Legion into liquidation. At that time, all open workers' compensation claims were sent to the various state guaranty funds for handling. Many of the states have denied responsibility with respect to Matrix Service claims because Matrix Service's net worth exceeded the statutory maximum as of December 31, 2002, the year preceding the Legion liquidation, under which claims would be handled by the individual state guaranty funds. Those states returned the claims back to Matrix Service for direct handling. In other states where Matrix Service has exposure, the state guaranty funds took over the claims. In recent months, however, some of those states have billed Matrix Service for reimbursement of payments made on Matrix Service claims.

Matrix Service is continuing to negotiate with Mutual for a reduction or elimination of the LC and surety bond. Matrix Service and Mutual have reached a tentative settlement in which a permanent injunction would replace the temporary restraining order prohibiting Mutual from drawing upon either the LC or bond, provided that Matrix Service continues to pay amounts owed directly to the Legion Liquidator or the individual state guaranty funds and works with the Liquidator to release Mutual from future liability with respect to Matrix Service claims. Matrix Service cannot predict when a final settlement will be reached due to difficulty in quantifying the precise exposure of Mutual for outstanding claims.

All claims that are outstanding with the Legion Liquidator, state guaranty funds and Mutual are claims that originated prior to May 1, 2002, the date on which Matrix Service replaced the Legion insurance program with workers' compensation insurance provided by "A" rated workers compensation carriers, are reserved by the Company. Although the Company believed its previous reserve of $0.8 million was adequate, recent claim settlements by state guaranty funds exceeded amounts accrued by the Company for the respective claims. In addition, during fiscal 2005, the Company obtained information regarding estimated settlements of open claims that were also higher than amounts previously accrued. As a result, the Company recorded an additional accrual of $1.2 million for these claims in fiscal 2005, increasing the Company's net reserve to $2.0 million. Additionally, it is still possible that Matrix Service will experience some additional exposure from the total of $4.9 million of existing security, consisting of the escrow accounts, LC and surety bond, until a final settlement agreement with Mutual is signed, a permanent injunction is entered and the LC and surety bond are cancelled. Matrix Service does not believe resolution of this issue will have a material effect on the Company's financial position, results of operations and liquidity.

Environmental Dispute

In March 2005, the South Coast Air Quality Management District (AQMD) of the State of California settled a complaint filed in March 2003 in the Los Angeles County Superior Court for the Central District against a Matrix Service customer alleging multiple violations by the customer at its west coast refinery for failure to comply with certain District Rules of the AQMD that established a self-inspection and compliance reporting program for above ground stationary tanks used to store crude oil, gasoline, and other petroleum products.

Matrix Service was not named in the AQMD complaint; however, counsel for the customer made a formal demand upon Matrix Service to assume defense of the case and to indemnify the customer for any damages it may incur. The customer's demand was made pursuant to the terms of the Master Service Agreement entered into in May 1999 between Matrix Service and the customer. Matrix Service rejected the demands of the customer based upon its own belief as to the interpretation of the Master Services Agreement and the facts developed by Matrix Service since the AQMD filed its complaint in March 2003. Matrix Service and the customer mutually agreed to toll the dispute for at least four years and until there is a resolution of the complaint filed by the AQMD against the customer.

While the existing relationship between Matrix Service and its customer may be positive, the customer may still assert claims against Matrix Service that it believes may be valid under the Master Services Agreement. There can be no assurance that Matrix Service will not incur costs associated with this matter. The Company currently cannot provide any estimate of possible loss or range of possible loss, if any, for this matter.

Unapproved Change Orders and Claims

As of May 31, 2005 and May 31, 2004, accounts receivable and costs and estimated earnings in excess of billings on uncompleted contracts included revenues, to the extent of costs incurred, for unapproved change orders of approximately $0.2 million and $1.5 million, respectively, and claims of approximately $0.4 million and $1.3 million, respectively. Amounts disclosed for unapproved change orders and claims exclude amounts associated with contract disputes disclosed in Note 12 – Contract Disputes. Generally, collection of amounts related to unapproved change orders and claims is expected within twelve months. However, customers generally will not pay these amounts to Matrix Service until final resolution of related claims, and accordingly, collection of these amounts may extend beyond one year.

Other

The Company and its subsidiaries are named as defendants in various other legal actions and are vigorously defending against each of them. It is the opinion of management that none of such legal actions will have a material effect on the Company's financial position, results of operations and liquidity.

Note 12. Contract Disputes

Contract Disputes Summary
(in thousands)

Dispute	Total Claim	Net Receivable As of May 31, 2005	Net Receivable As of May 31, 2004
Contract Dispute I	$27,048	**$ 14,943**	$ 14,926
Contract Dispute II	15,029	**11,207**	11,300
Contract Dispute III	6,577	**4,183**	4,255
Contract Dispute IV	2,054	**975**	975
Contract Dispute Reserve	—	**(10,333)**	—
Total	$50,708	**$ 20,975**	$ 31,456

Contract Dispute I

Four subsidiaries of the Company performed work from March 2003 to November 2003 under several subcontracts with a general contractor (GC) to erect a combined cycle power plant. In October 2003 with the project 85% complete, the GC terminated the Company from one subcontract due to contractual disputes and claims against the GC for additional monies owed related to significant increased costs stemming from alleged mismanagement of the project by the GC. Other subcontracts were substantially completed but were consequently terminated for convenience by the GC.

The Company, through a subsidiary, consequently filed suit against the GC in November 2003. Other subsidiaries of the Company filed suit for non-payment in December 2003. Mediation occurred in August 2004, however, no resolution was reached. The subsidiaries of the Company, along with their independent contract forensics experts, believe the claims are valid and expect a ruling in the Company's favor regarding these matters. The three suits have been combined into one forum of litigation by the presiding judge. The Company expects a trial date to be set for some time in the second quarter of fiscal 2006 and expects full resolution in these matters to occur in fiscal 2006.

The Company's total claim in this matter is approximately $27.0 million and the Company has, in accordance with SOP 81-1, a $14.9 million net receivable recorded in our balance sheet, excluding the contract dispute reserve.

Contract Dispute II

In the fourth quarter of fiscal 2003, a subsidiary of the Company was subcontracted by a general contractor (GC) to erect two Selective Catalytic Reactor (SCR) Units for an owner. The Company subsidiary had performed all of its obligations to the GC in accordance with the parties' Subcontractor Agreement, along with significant extra work that the GC directed the Company's subsidiary to perform to cure design defects, mis-fabrications, and project delays attributable to the GC. The GC refused to sign certain change orders for the additional work performed and alleged that the services and materials provided by the Company were defective and behind schedule. In June 2004, the owner terminated the GC for cause. The owner subsequently retained the subsidiary of the Company to complete the project. The owner refused to pay the subsidiary of the Company the amounts owed by the GC because the owner had previously paid the GC for the work. The Company has subsequently completed work on the SCR units to the satisfaction of the owner.

Under the terms of the owner's original contract with the GC, the GC provided the owner with an unconditional and irrevocable guarantee of its parent, a non-USA based holding company. Under this guarantee, the parent guaranteed the GC's performance and payment obligations, including the obligations that the GC owed to the Company and other subcontractors. The Company has subsequently filed suit against the GC's parent pursuant to the contractual parental guarantee but expects the proceedings to be stayed until arbitration between the GC and the Company is completed. If the proceedings are not successful against the GC, the Company believes it can seek recovery under the parental guarantee. Currently, an arbitration date has been scheduled for the second quarter of fiscal 2006. The Company, along with our independent contract forensics firm, believes that we have valid claims and expect a decision in our favor regarding this matter. The Company expects a full resolution in this matter to occur in fiscal 2006.

The Company's total claim in this matter is approximately $15.0 million and the Company has, in accordance with SOP 81-1, a $11.2 million net receivable recorded in our balance sheet, excluding the contract dispute reserve.

Contract Dispute III

In fiscal year 2003, two of the Company's subsidiaries entered into sub-subcontract agreements with another subcontractor (Sub) to provide all necessary supervision, labor, materials, and equipment necessary to install a heater foundation, on a time and material basis at an owner's facility. The Sub was previously contracted by the general contractor (GC) on the project, to perform foundation installation, equipment, piping and steel erection, other construction work and construction management. As the project progressed, the Sub opted to increase the Company's subsidiaries scope of work.

On September 30, 2003, the Sub filed for Chapter 11 bankruptcy protection. At the date of the bankruptcy filing, the Company subsidiaries were substantially complete with all work at the job site. Subsequent to the Sub's bankruptcy filing, the GC assumed all of the Sub's obligations that are subject to valid liens associated with the project. The Company's subsidiaries subsequently filed valid construction lien claims totaling approximately $5.8 million against the owner, GC and Sub. These lien claims have been consolidated with six other sub-subcontractor lien claims associated with the project and the lien claims have been fully bonded by the GC, although the GC disputes the lien amounts and seeks to have a smaller lien fund fixed. Therefore, the Company is not required to proceed through the Sub's bankruptcy proceedings to collect on amounts owed. The Court has ruled that initial discovery be limited to matters relevant to the computation of the "lien fund" that is available to satisfy the liens that have been asserted against the project. Currently, the Company is in dispute with the owner and the GC as to the appropriate calculation of the available lien fund. The Company believes that we have a valid claim and that the value of the lien fund will be established at an amount adequate to fund the associated claim by the Company. The Company expects a full resolution in this matter to occur in fiscal 2006.

The Company's total claim in this matter is approximately $6.6 million and the Company has in accordance with SOP 81-1, a $4.2 million net receivable recorded in our balance sheet, excluding the contract dispute reserve.

Contract Dispute IV

In March 2000, the Company entered into a joint venture partnership (JV) agreement for the construction of a pulp and paper project for an owner, which was completed late in 2000. The services provided by the JV consisted primarily of a labor contract with the owner supplying the engineering and the majority of the materials to be installed. The claim arises out of a contractual dispute in which the Company believes the JV incurred substantial work because the owner's planning and engineering on the project was not adequate. The owner did not pay amounts owed and claims that the JV was not properly licensed by the Oregon Contractors Licensing Board, and therefore not eligible to file a lawsuit under Oregon law. An Oregon state court ruled in favor of the owner regarding the licensing issue and the Company appealed the decision.

Oral arguments were held in Court of Appeals on March 8, 2005. The Court of Appeals ruled in favor of the Company and reversed the lower court ruling. The Company and its external counsel believe that we have valid claims under state law. The owner has petitioned the Oregon State Supreme Court and the petition for review is due August 17, 2005. In the event the Oregon State Supreme Court elects to hear the case, the Company expects a decision in our favor from the Oregon State Supreme Court. The Company also believes that a recent state court ruling supports our position regarding the claim. The Company expects a full resolution in this matter to occur in fiscal 2006.

The Company's total claim in this matter is approximately $2.1 million, excluding legal costs, and the Company, in accordance with SOP 81-1, has a $1.0 million net receivable recorded in our balance sheet, excluding the contract dispute reserve.

Contract Dispute Reserve

In February 2005, the Board of Directors authorized management to initiate an effort to accelerate the resolution and collection of the amounts owed on the disputed contracts, and further limit the costs of litigation to the Company arising out of the various disputes. The action by the Board was taken in connection with the Company's liquidity situation, restructuring plans and refinancing efforts. While the Company believes that allowing these disputes to be resolved through the normal course of arbitration or litigation would result in the recovery of amounts equal to or in excess of the previously recorded balances, the Board concluded that addressing the liquidity situation was of utmost importance. Therefore, in an effort to expedite the collection of these balances, the Board authorized management to pursue resolution at amounts below that previously reflected on the balance sheet. As a result of the Company's initiative, the Company recorded additional reserves of $10.3 million in fiscal 2005.

The Company believes it is adequately reserved for the disputes and will continue to assess the adequacy of the reserves as additional information becomes available.

Note 13. Commitments

The Company is the lessee under operating leases covering real estate, office equipment and vehicles. Future minimum lease payments are as follows: 2006 - $1.4 million; 2007 – $1.0 million; 2008 - $0.6 million; 2009 - $0.1 million; 2010 - $0.1 million and thereafter - $0.7 million. Rental expense was $1.9 million, $2.1 million and $1.4 million for the years ended May 31, 2005, 2004 and 2003, respectively. Rental expense associated with related party leases was $0.3 million for the year ended May 31, 2005, $0.3 million for the year ended May 31, 2004, and $0.1 million for the year ended May 31, 2003.

Matrix Service Company

Notes to Consolidated Financial Statements

Note 14. Stockholders' Equity

Incentive Stock Options

The Company's 1990 Incentive Stock Option Plan (the "1990 Plan"), 1991 Incentive Stock Option Plan (the "1991 Plan"), and 2004 Stock Option Plan (the "2004 Plan") provide incentives for officers and other key employees of the Company. The Company also has a 1995 Nonemployee Directors' Stock Option Plan (the "1995 Plan"). Under the 1990, 1991 and 2004 Plans, incentive and non-qualified stock options may be granted to the Company's key employees and nonqualified stock options may be granted to nonemployees who are elected for the first time as directors of the Company after January 1, 1991. Employee options generally become exercisable over a five-year period from the date of the grant. Under the 1995 Plan, qualified stock options are granted annually to nonemployee directors and generally become exercisable over a two-year period from the date of the grant. Under each plan, options may be granted with durations of no more than ten years. The option price per share may not be less than the fair market value of the common stock at the time the option is granted. Shareholders have authorized an aggregate of 1,800,000 options, 2,640,000 options, 500,000 options and 1,200,000 options to be granted under the 1990, 1991, 1995 and 2004 Plans, respectively.

The following summary reflects option transactions for the past three years:

	Shares	Option Price Per Share			Weighted Average Price
Shares under option:					
Outstanding at May 31, 2002	2,003,726	$ 1.813	–	$ 3.875	2.323
Granted	274,000	3.650	–	3.700	3.698
Exercised	(429,192)	1.813	–	3.875	2.413
Canceled	(34,200)	2.188	–	3.700	2.752
Outstanding at May 31, 2003	1,814,334	1.813	–	3.875	2.502
Granted	487,600	12.195	–	12.195	12.195
Exercised	(1,055,570)	1.813	–	3.875	2.270
Canceled	(1,200)	2.188	–	2.188	2.188
Outstanding at May 31, 2004	1,245,164	1.813	–	12.195	6.494
Granted	**419,500**	**4.080**	**–**	**5.850**	**4.544**
Exercised	**(211,200)**	**1.813**	**–**	**3.700**	**2.714**
Canceled	**(357,500)**	**2.125**	**–**	**12.195**	**8.691**
Outstanding at May 31, 2005	**1,095,964**	**$ 1.875**		**$12.195**	**$ 5.760**

The average grant date fair values of options awarded during 2005, 2004 and 2003 were $2.90, $5.23 and $1.81, respectively. Options exercisable total 362,784 options, 329,364 options and 918,254 options at May 31, 2005, 2004 and 2003, respectively. The weighted average exercise prices of exercisable options were $4.73, $2.53, and $2.19 at May 31, 2005, 2004 and 2003, respectively.

The following summarizes information about stock options at May 31, 2005:

	Options Outstanding			Options Exercisable	
Range of Exercise Price	Number Outstanding	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price	Number Exercisable	Weighted Average Exercise Price
$1.875 – $2.594	232,700	4.5	$ 2.232	190,700	$ 2.221
3.025 – 3.700	208,664	7.0	3.431	92,264	3.446
4.080 – 5.850	379,500	9.5	4.538	—	—
12.195	275,100	8.4	12.195	79,820	12.195
$1.875 – $12.195	1,095,964	7.7	$ 5.760	362,784	$ 4.727

Preferred Stock

The Company has 5.0 million shares of preferred stock authorized, none of which was issued or outstanding at May 31, 2005 or 2004.

Preferred Share Purchase Rights

The Company's Board of Directors authorized and directed a dividend of one preferred share purchase right for each common share outstanding on November 12, 1999 and authorized and directed the issuance of one right per common share for any shares issued after that date. These rights, which expire November 12, 2009, will be exercisable only if a person or group acquires 15 percent or more of the Company's common stock or announces a tender offer that would result in ownership of 15 percent or more of the common stock. Each right will entitle stockholders to buy one one-hundredth of a share of preferred stock at an exercisable price of $40. In addition, the rights enable holders to either acquire additional shares of the Company's common stock or purchase the stock of an acquiring company at a discount, depending on specific circumstances. The rights may be redeemed by the Company in whole, but not in part, for one cent per right.

In connection with the issuance of the Convertible Notes described under Note 6 – Convertible Debt, the Company amended the Rights Agreement relating to the preferred share purchase rights. The amendment renders the provisions of the Rights Agreement inapplicable to the investors in the Convertible Notes by exempting them from the definition of "acquiring person" as a result of the purchase of the Convertible Notes.

Note 15. Employee Benefit Plan

The Company sponsors a defined contribution 401(k) savings plan (the "Matrix Service Plan") for all employees meeting length of service requirements. Participants may contribute an amount up to 25% of pretax annual compensation as defined in the Plan, subject to certain limitations in accordance with Section 401(k) of the Internal Revenue Code. The Company matches employee contributions based on an annual calendar year discretionary election. In calendar years 2005 and 2004, the Company elected to match 50% of the first 6% of employee contributions. In calendar year 2003, the Company match was 25%.

The Company recognized cost relating to the plans of $1.0 million, $0.8 million and $0.5 million for the years ended May 31, 2005, 2004 and 2003, respectively.

Note 16. Stock Dividend

During the second quarter of fiscal 2004, the Company declared a two-for-one stock split payable on November 21, 2003, in the form of a one-for-one stock dividend to stockholders of record on October 31, 2003. All shares, share prices and earnings per share amounts have been restated for all periods presented to reflect the change in the capital structure.

Note 17. Other Financial Information

Sales to two customers accounted for approximately 11% and 10%, respectively, of the Company's consolidated revenues for the year ended May 31, 2005. The customer that represented 11% of consolidated revenues represented 8% of Construction Services' and 14% of Repair and Maintenance Services' revenues. The customer that represented 10% of consolidated revenues represented 4% of Construction Services' and 15% of Repair and Maintenance Services' revenue.

Sales to one customer accounted for approximately 32% of the Company's revenues for the year ended May 31, 2004 and 45% of Construction Services' revenues. Two other customers represented 20% and 13% of Repair and Maintenance Services' revenues, respectively.

Sales to two customers accounted for approximately 16% and 10%, respectively of the Company's revenues for the year ended May 31, 2003. The customer that represented 16% of consolidated revenues represented 19% of Construction Services' and 11% of Repair and Maintenance Services' revenues. The customer that represented 10% of consolidated revenues represented 2% of Construction Services' and 21% of Repair and Maintenance Services' revenues.

Note 18. Segment Information

The Company has two reportable segments, Construction Services and Repair and Maintenance Services.

Our construction services include turnkey projects, renovations, upgrades, and expansions for large and small projects. We routinely perform civil and concrete, electrical and instrumentation, mechanical, piping and equipment installations, and tank engineering, design, fabrication and erection, as well as steel, steel plate, vessel and pipe fabrication.

Our repair and maintenance services include outages and turnarounds, plant maintenance, electrical and instrumentation maintenance, tank inspection, repair and maintenance, industrial cleaning, and American Society of Mechanical Engineers (ASME) code repairs.

Other consists of items related to previously disposed of businesses and identified costs incurred related to the integration of Hake.

The Company evaluates performance and allocates resources based on profit or loss from operations before income taxes. The accounting policies of the reportable segments are the same as those described in the summary of significant accounting policies. Intersegment sales and transfers are recorded at cost and there is no inter-company profit or loss on intersegment sales or transfers.

Segment assets consist of accounts receivable, costs and estimated earnings in excess of billings on uncompleted contracts, property, plant and equipment and goodwill. Goodwill related to the Hake acquisition was included in Other until it was allocated to reporting units in fiscal 2005.

Restructuring charges are reflected in their applicable segment. "Other" restructuring, impairment and abandonment charges are allocated to the Construction Services and Repairs and Maintenance Services segments based on percentage of revenue.

Matrix Service Company

Notes to Consolidated Financial Statements

Matrix Service
Annual Results of Operations
($ Amounts In Thousands)

	Construction Services	Repair and Maintenance Services	Other	Combined Total
Year ended May 31, 2005				
Gross revenues	**$ 215,997**	**$ 236,059**	**—**	**$452,056**
Less: inter-segment revenues	**(12,047)**	**(871)**	**—**	**(12,918)**
Consolidated revenues	**203,950**	**235,188**	**—**	**439,138**
Gross profit	**12,178**	**18,841**	**—**	**31,019**
Operating income (loss)	**(40,786)**	**2,005**	**(357)**	**(39,138)**
Income (loss) before income tax expense	**(44,052)**	**(49)**	**(357)**	**(44,458)**
Net income (loss)	**(38,590)**	**(19)**	**(221)**	**(38,830)**
Segment assets	**92,877**	**84,215**	**25,288**	**202,380**
Capital expenditures	**432**	**365**	**1,017**	**1,814**
Depreciation and amortization expense	**3,470**	**3,256**	**—**	**6,726**
Year ended May 31, 2004				
Gross revenues	$ 440,299	$ 178,479	$ —	$618,778
Less: inter-segment revenues	10,707	167	—	10,874
Consolidated revenues	429,592	178,312	—	607,904
Gross profit	27,552	18,761	—	46,313
Operating income (loss)	9,957	7,630	(68)	17,519
Income (loss) before income tax expense	8,468	6,813	(68)	15,213
Net income (loss)	5,547	4,035	(40)	9,542
Segment assets	123,752	68,626	23,896	216,274
Capital expenditures	777	1,780	2,118	4,675
Depreciation and amortization expense	3,396	3,012	—	6,408
Year ended May 31, 2003				
Gross revenues	$ 190,014	$ 117,519	$ —	$307,533
Less: inter-segment revenues	18,977	138	—	19,115
Consolidated revenues	171,037	117,381	—	288,418
Gross profit	18,746	12,864	—	31,610
Operating income	7,301	4,361	782	12,444
Income before income tax expense	7,160	4,304	782	12,246
Net income	5,049	2,644	485	8,178
Segment assets	87,593	43,073	72,273	202,939
Capital expenditures	7,462	5,019	3,639	16,120
Depreciation and amortization expense	2,863	2,368	—	5,231

Geographical information is as follows:

	Revenues		
	Fiscal 2005	Fiscal 2004	Fiscal 2003
		(In Thousands)	
Domestic	**$ 433,547**	$ 603,424	$ 282,018
International	**5,591**	4,480	6,400
	$ 439,138	$ 607,904	$ 288,418

	Long Lived Assets		
	May 31, 2005	May 31, 2004	May 31, 2003
Domestic	**$59,097**	$93,706	$ 98,689
International	**3,023**	2,867	2,816
	$62,120	$96,573	$ 101,505

Segment revenue from external customers by industry type are as follows:

	Construction Services	Repair and Maintenance Services	Total
		(In Thousands)	
For the year ended May 31, 2005			
Power Industry	$ 37,225	$ 26,229	$ 63,454
Downstream Petroleum Industry	138,716	200,639	339,355
Other Industries	28,009	8,320	36,329
Total	$ 203,950	$ 235,188	$ 439,138
For the year ended May 31, 2004			
Power Industry	$ 299,138	$ 14,468	$ 313,606
Downstream Petroleum Industry	117,805	154,167	271,972
Other Industries	12,649	9,677	22,326
Total	$ 429,592	$ 178,312	$ 607,904
For the year ended May 31, 2003			
Power Industry	$ 60,664	$ 6,048	$ 66,712
Downstream Petroleum Industry	102,988	111,207	214,195
Other Industries	7,385	126	7,511
Total	$ 171,037	$ 117,381	$ 288,418

Other Industries consists primarily of wastewater, food and beverage, electronics and paper industries.

Note 19. Subsequent Events

Asset Sales

On June 27, 2005, Matrix Service signed a letter of intent to sell the operations of our Bethlehem, Pennsylvania fabrication facility, which is part of our Construction Services segment, to an undisclosed buyer for approximately $3.5 million. Total assets and total liabilities at May 31, 2005 related to the facility were approximately $3.1 million and $1.5 million, respectively. We expect this transaction to close in the first quarter of 2006 and do not expect a loss related to the disposition.

Matrix Service Company

Notes to Consolidated Financial Statements

Contract Dispute

A subsidiary of the Company performed work from May 2005 to August 2005 under a subcontract with a general contractor (GC) to construct a winery. On August 10, 2005, with the project more than 60% complete, the Company asserted claims for impacts and delays attributable to the GC's numerous change orders and project acceleration. The GC responded on August 11, 2005, with a demand for the Company to submit to the GC's mandate to continue working within the original terms and conditions of the contractual agreement. If the Company did not yield to the GC's demand in less than two (2) hours from the time the demand was sent to the Company, the GC stated it would complete the job using others and charge the cost to complete back to the Company. The Company subsequently de-mobilized from the site.

The Company has recorded a $0.6 million loss at May 31, 2005, related to the project. While it is reasonably possible that the Company will have additional exposure or recoveries as a result of the dispute resolution provisions provided for in the contract, an amount cannot be estimated at this time. As the dispute arose subsequent to May 31, 2005, amounts associated with the dispute are not classified as Contract Disputes in our May 31, 2005 Consolidated Balance Sheet. At May 31, 2005 the contract was less than 10% complete and the Company has $0.2 million recorded in accounts receivable and $0.7 million recorded in billings on uncompleted contracts in excess of costs and estimated earnings for a net balance sheet reserve of $0.5 million. As a result of the impacts and delays described above which occurred subsequent to May 31, 2005, the Company has incurred additional costs. Through the date that the Company de-mobilized from the site, total costs incurred were approximately $3.5 million of which $1.4 million has been collected and $1.6 million remains due to the Company's vendors.

Matrix Service Company

Quarterly Financial Data (Unaudited)

Summarized quarterly financial data are as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
	(In Thousands, Except Per Share Amounts)			
2005				
Revenues	**$ 84,939**	**$ 113,522**	**$ 111,447**	**$ 129,230**
Gross profit	**6,714**	**10,968**	**5,874**	**7,463**
Net income	**(892)**	**1,293**	**(35,469)**	**(3,762)**
Net income per common share:				
Basic	**(0.05)**	**0.07**	**(2.05)**	**(0.22)**
Diluted	**(0.05)**	**0.07**	**(2.05)**	**(0.22)**
2004				
Revenues	$158,762	$170,913	$145,175	$133,054
Gross profit	13,081	13,078	11,820	8,334
Net income	3,865	3,092	2,259	326
Net income per common share:				
Basic	0.24	0.19	0.13	0.02
Diluted	0.22	0.18	0.13	0.02

The sum of earnings per share for the four quarters may not equal the total earnings per share for the year due to changes in the average number of common shares outstanding and rounding.

Fiscal 2005

The first quarter reduction in earnings was primarily a by-product of the decline in Construction Services revenue due to the completion of two large low margin power projects in fiscal 2004. This large decline in revenues resulted in less absorption of fixed costs.

Although second quarter gross margins were consistent with our expectations, the results were diluted by the presence of additional legal costs related to contract disputes previously disclosed, combined with the expenses for Sarbanes-Oxley compliance, along with rising interest costs due to escalating rates and debt level.

Third quarter results were impacted by a combination of a $25 million impairment of goodwill and an additional $10.3 million contract dispute reserve. In addition to these charges, the Company experienced higher legal and Sarbanes-Oxley costs, as well as higher interest expense.

Fourth quarter results were impacted by the inclusion of low margin Repair and Maintenance work, and three loss projects in the Western Business Unit, along with restructuring and refinancing efforts that occurred throughout the quarter. Higher expenses for Sarbanes-Oxley compliance and higher interest costs also contributed to the decline, while litigation expenses have declined as preparation work is substantially complete for the contract disputes.

Fiscal 2004

The fourth quarter earnings results for fiscal 2004 were negatively affected by cost overruns and overruns by subcontractors on projects in our Eastern operations, as well as additional interest and legal costs incurred related to contract disputes disclosed throughout fiscal 2004.

SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS

Matrix Service Company

May 31, 2005, 2004 and 2003

COL. A	COL. B	COL. C		COL. D	COL. E
		Additions			
Description	Balance at Beginning of Period	Charged to Costs and Expenses	Charged to Other Accounts–Describe	Deductions–Describe(B)	Balance At End Of Period
		(Amounts in Thousands)			
Year ended May 31, 2005:					
Deducted from assets accounts:					
Allowance for doubtful accounts	$ 337	$ 562	$ —	$ (438)	$ 461
Contract Disputes Reserve	—	10,333	—	—	10,333
Valuation reserve for deferred tax assets	2,619	2,520	—	—	5,139
Total	$ 2,956	$ 13,415	$ —	$ (438)	$ 15,933
Year ended May 31, 2004:					
Deducted from assets accounts:					
Allowance for doubtful accounts	$ 900	$ 400	$ —	$ (963)(C)	$ 337
Valuation reserve for deferred tax assets	2,619	—	—	—	2,619
Total	$ 3,519	$ 400	$ —	$ (963)	$ 2,956
Year ended May 31, 2003:					
Deducted from assets accounts:					
Allowance for doubtful accounts	$ 242	$ 328	$ 399(A)	$ (69)	$ 900
Valuation reserve for deferred tax assets	842	—	1,777(A)	—	2,619
Total	$ 1,084	$ 328	$ 2,176	$ (69)	$ 3,519

(A) Represents amounts recorded in connection with the Hake acquisition.
(B) Receivables written off against allowance for doubtful accounts.
(C) Represents $700 reclassified to contract disputes and $263 of receivables written off against the allowance for doubtful accounts.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None

Item 9A. Controls and Procedures

The Company's management, with the participation of the Company's Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the Company's disclosure controls and procedures as of May 31, 2005.

As described in the Management's Report on Internal Control Over Financial Reporting, the Company has identified and reported to the Company's Audit Committee and Ernst & Young, LLP, the Company's independent registered public accounting firm, certain ineffective controls which together constitute a material weakness in the Company's internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) with respect to the revenue recognition process at its Eastern Business Unit as of May 31, 2005.

As a result of the material weakness, the Company's management concluded that the Company's disclosure controls and procedures were not effective, as of May 31, 2005.

Notwithstanding the above-mentioned material weakness, in light of the processes involved in the preparation of the Company's consolidated financial statements for the year ended May 31, 2005, Management and the Company believe that these financial statements fairly present the Company's consolidated financial position as of, and the consolidated results of operations for the year ended May 31, 2005. These processes included detailed transaction testing for various key accounts, revenue recognition and certain review procedures. As a result of these processes, Management concluded that no material adjustments were needed to such financial statements or with respect to amounts recorded in any interim periods in the year ended May 31, 2005.

Based upon their evaluation, Management and the Company have taken or will be taking the following steps to improve the effectiveness of its disclosure controls:

- Implementation of new and expanded training programs for information critical to employees responsible for financial reporting.
- Improved and more timely documented reviews of job forecasts and related percentage-of-completion computations.
- Reinforcement of procedures related to recording and reporting approved and disputed change orders.
- Improved documentation of reconciliations of invoicing.

Item 9B. Other Information

Preferred Share Authorization

On May 1, 2005, our Board of Directors adopted a resolution authorizing and directing an increase in the authorized number of shares of our Series B Participating Preferred Stock from 200,000 shares to 300,000 shares. The shares of our Series B Participating Preferred Stock are issuable in connection with that certain rights agreement dated November 2, 1999 between us and UMB Bank, N.A., as amended. In order to effect this increase, we filed a Certificate of Increase of Authorized Number of Shares of Series B Junior Participating Preferred Stock with the Secretary of State of Delaware on August 11, 2005.

Credit Facility Amendment

On August 10, 2005, we entered into an amendment (amendment ten) to our Credit Agreement among us, International Bank of Commerce, Wachovia Bank, N.A., UMB Bank, N.A., Wells Fargo Bank, N.A. and JP Morgan Chase Bank, N.A., as a lender, letter of credit issuer and as agent for the other lenders. A description of the terms and conditions of amendment ten is included under Item 7 of this annual report on Form 10-K under the caption “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Financial Condition and Liquidity,” which description is incorporated by reference in this Item 9B.

Other than in respect of amendment ten and the credit agreement, there are no material relationships between the Company, the lenders or their respective affiliates, except that some of the lenders and their affiliates have engaged in and may engage in commercial banking transactions and may engage in investment banking transactions with the Company in the ordinary course of business and also have provided or may provide advisory and financial services to the Company.

PART III

The information called for by Part III of Form 10-K (consisting of Item 10 — Directors and Executive Officers of the Registrant, Item 11 — Executive Compensation, Item 12 — Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters, Item 13 — Certain Relationships and Related Transactions and Item 14 – Principal Accountant Fees and Services), is incorporated by reference from the Company’s definitive proxy statement, which will be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this report relates.

The Company has adopted a Code of Business Conduct and Ethics applicable to all directors, officers and employees, including the principal executive officer, principal financial officer and principal accounting officer of the Company. The Code of Business Conduct and Ethics is publicly available in the “Investors” section of the Company’s website at www.matrixservice.com under “Corporate Governance.” If we make any substantive amendments to the Code of Business Conduct and Ethics, or grant any waivers, including implicit waivers, from, the Code of Business Conduct and Ethics applicable to the principal executive officer, principal financial officer or principal accounting officer, or any person performing similar functions, we will disclose such amendment or waiver on our website or in a report on Form 8-K.

PART IV

Item 15. Exhibits and Financial Statement Schedules

Financial Statements of the Company

The following financial statements are filed as a part of this report under "Item 8 – Financial Statements and Supplementary Data":

Financial Statement Schedules

The following financial statement schedule is filed as a part of this report under "Schedule II" immediately following Quarterly Financial Data (unaudited): Schedule II – Valuation and Qualifying Accounts for the three fiscal years ended May 31, 2005. All other schedules called for by Form 10-K are omitted because they are inapplicable or the required information is shown in the financial statements, or notes thereto, included herein.

Exhibits

3.1	Restated Certificate of Incorporation (Exhibit 3.1 to the Company's Registration Statement on Form S-3 (No. 333-117077) filed July 1, 2004 (the "S-3 Registration Statement") is hereby incorporated by reference).
3.2	Certificate of Amendment of Restated Certificate of Incorporation dated October 31, 2000 (Exhibit 3.3 to the S-3 Registration Statement is hereby incorporated by reference).
3.3	Certificate of Designations, Preferences and Rights of Series B Junior Preferred Stock dated November 12, 1999 (Exhibit 3.2 to the Company's Registration Statement on Form S-3 (File No. 333-117077), filed July 1, 2004 is hereby incorporated by reference).
3.4	Bylaws, as amended (Exhibit 3.2 to the Company's Registration Statement on Form S-1 (No. 33-36081) filed July 26, 1990 is hereby incorporated by reference).
* 3.5	Certificate of Increase of Authorized Number of Shares of Series B Junior Participating Preferred Stock pursuant to Section 151 of the General Corporation Law of the State of Delaware dated May 1, 2005.
4.1	Specimen Common Stock Certificate (Exhibit 4.1 to the Company's Registration Statement on Form S-1 (File No. 33-36081) filed July 26, 1990 is hereby incorporated by reference).
4.2	Securities Purchase Agreement dated April 22, 2005, including form of Note (Exhibit 10.1 to the Company's current report on Form 8-K (File No. 1-15461), filed April 25, 2005, is hereby incorporated by reference).
+ 10.1	Matrix Service 1990 Incentive Stock Option Plan (Exhibit 10.14 to the Company's Registration Statement on Form S-1 (File No. 33-36081), as amended, filed July 26, 1990, is hereby incorporated by reference).
+ 10.2	Matrix Service 1991 Stock Option Plan, (Exhibit 10.1 to the Company's Registration Statement on Form S-8 (File No. 333-56945), as amended, filed June 12, 1998, is hereby incorporated by reference).
+ 10.3	Matrix Service 1995 Nonemployee Directors' Stock Option Plan (Exhibit 4.3 to the Company's Registration Statement on Form S-8 (File No. 333-2771), filed April 24, 1996, is hereby incorporated by reference).
+ 10.4	Matrix Service 2004 Incentive Stock Option Plan (Exhibit A to the Company's Proxy Statement for its Special Meeting of Stockholders dated February 16, 2004 (File No. 1-15461), is hereby incorporated by reference).
10.5	Amended and Restated Stock Purchase Agreement and Conversion to Asset Purchase Agreement, dated August 31, 1999, by and among Matrix Service and Caldwell Tanks, Inc. (Exhibit 99.1 to the Company's current report on Form 8-K (File No. 0-18716) filed September 13, 1999, is hereby incorporated by reference).
10.6	Rights Agreement (including a form of Certificate of Designation of Series B Junior participating Preferred Stock as Exhibit A thereto, a form of Right Certificate as Exhibit B thereto and a summary of Rights to Purchase Preferred Stock as Exhibit C thereto), dated November 2, 1999, (Exhibit I to the Company's current report on Form 8-K (File No. 0-18716) filed November 9, 1999, is hereby incorporated by reference).
10.7	Amendment No. 1 to Rights Agreement effective April 21, 2005 (Exhibit 10.4 to the Company's current report on Form 8-K (File No. 1-15461), filed April 25, 2005, is hereby incorporated by reference).
10.8	Equity Interests Purchase Agreement dated as of March 7, 2003 by and among Hake Acquisition Corp., Matrix Service, and the Holders of the Equity Interests of The Hake Group of Companies. (Exhibit 99.1 to the Company's current report on Form 8-K (File No. 1-15461), filed March 24, 2003, is hereby incorporated by reference).

10.9	Credit Agreement dated as of March 7, 2003, by and among Matrix Service Company, the Lenders referred to therein, Bank One, Oklahoma N.A., as Agent and Wells Fargo Bank Texas, N.A., as Co-Agent. (Exhibit 99.2 to the Company's current report on Form 8-K (File No. 1-15461), filed March 24, 2003, is hereby incorporated by reference).
10.10	Amendment No. One to Credit Agreement (Exhibit 10.5 to the Company's Registration Statement on Form S-3 (File No. 333-117077), filed July 1, 2004, is hereby incorporated by reference).
10.11	Amendment No. Two to Credit Agreement (Exhibit 10.6 to the Company's Registration Statement on Form S-3 (File No. 333-117077), filed July 1, 2004, is hereby incorporated by reference).
10.12	Amendment No. Three to Credit Agreement (Exhibit 10.7 to the Company's Registration Statement on Form S-3 (File No. 333-117077), filed July 1, 2004, is hereby incorporated by reference).
10.13	Amendment No. Four to Credit Agreement (Exhibit 10.8 to the Company's Registration Statement on Form S-3 (File No. 333-117077), filed July 1, 2004, is hereby incorporated by reference).
10.14	Amendment No. Five to Credit Agreement (Exhibit 10.9 to the Company's Registration Statement on Form S-3 (File No. 333-117077), filed July 1, 2004, is hereby incorporated by reference).
10.15	Amendment No. Six to Credit Agreement (Exhibit 10.14 to the Company's Annual Report on Form 10-K (File No. 1-15461) filed August 13, 2004, is hereby incorporated by reference).
10.16	Amendment No. Seven to Credit Agreement (Exhibit 10.4 to the Company's quarterly report on Form 10-Q (File No. 1-15461), filed October 7, 2004, is hereby incorporated by reference).
10.17	Amendment No. Eight to Credit Agreement (Exhibit 10.1 to the Company's current report on Form 8-K/A dated December 16, 2004 (File No. 1-15461), is hereby incorporated by reference).
10.18	Credit Agreement Waiver Letter dated March 23, 2005 (Exhibit 10.1 to the Company's current report on Form 8-K dated March 29, 2005 (File No. 1-15461), is hereby incorporated by reference).
10.19	Credit Agreement Waiver Letter and Amendment dated April 8, 2005 (Exhibit 10.1 to the Company's quarterly report on Form 10-Q (File No. 1-15461), filed April 11, 2005, is hereby incorporated by reference).
10.20	Amendment No. Nine to Credit Agreement (Exhibit 10.5 to the Company's current report on Form 8-K dated April 25, 2005 (File No. 1-15461), is hereby incorporated by reference).
* 10.21	Credit Agreement Waiver Letter dated May 6, 2005.
* 10.22	Credit Agreement Waiver Letter dated June 8, 2005.
10.23	Credit Agreement Waiver Letter dated July 20, 2005 (Exhibit 10.1 to the Company's current report on Form 8-K dated July 26, 2005 (File No. 1-15461), is hereby incorporated by reference).

* 10.24	Amendment No. Ten to Credit Agreement dated August 10, 2005.
* 10.25	Credit Waiver Letter dated August 10, 2005.
+ 10.26	Chief Operating Officer Severance Agreement effective October 1, 2004 between the Company and James P. Ryan (Exhibit 10.1 to the Company's current report on Form 8-K dated September 16, 2004 (File No. 1-15461), is hereby incorporated by reference).
+ 10.27	Chief Financial Officer Severance Agreement effective June 1, 2004 between the Company and George L. Austin (Exhibit 10.2 to the Company's quarterly report on Form 10-Q dated October 7, 2004 (File No. 1-15461), is hereby incorporated by reference).
+ 10.28	Employment Agreement between the Company and Michael J. Hall dated April 25, 2005 (Exhibit 10.2 to the Company's current report on Form 8-K/A dated April 26, 2005 (File No. 1-15461), is hereby incorporated by reference).
+ 10.29	Chief Executive Officer Severance Agreement between the Company and Bradley S. Vetal (Exhibit 10.1 to the Company's quarterly report on Form 10-Q dated October 7, 2004 (File No. 1-15461), is hereby incorporated by reference).
+ 10.30	Separation Agreement between the Company and Bradley S. Vetal (Exhibit 10.3 to the Company's current report on Form 8-K/A dated April 26, 2005 (File No. 1-15461), is hereby incorporated by reference).
10.31	Subordination Agreement dated as of April 22, 2005 (Exhibit 10.2 to the Company's current report on Form 8-K dated April 25, 2005 (File No. 1-15461), is hereby incorporated by reference).
10.32	Registration Rights Agreement dated as of April 22, 2005 (Exhibit 10.3 to the Company's current report on Form 8-K dated April 25, 2005 (File No. 1-15461), is hereby incorporated by reference.
10.33	Form of Retention Agreement (Exhibit 10.1 to the Company's current report on Form 8-K filed May 6, 2005 (File No. 1-15461), is hereby incorporated by reference).
* 10.34	Lump Sum Turnkey Agreement dated May 6, 2005 among the Company, Diamond LNG LLC and Bechtel Corporation.
+ 10.35	Form of Stock Option Award Agreement (Exhibit 10.3 to the Company's quarterly report on Form 10-Q dated October 7, 2004 (File No. 1-15461), is hereby incorporated by reference).
* 21.1	Subsidiaries of Matrix Service.
* 23.1	Consent of Independent Registered Public Accounting Firm.
* 31.1	Certification Pursuant to Section 302 of Sarbannes-Oxley Act of 2002 – CEO.
* 31.2	Certification Pursuant to Section 302 of Sarbannes-Oxley Act of 2002 – CFO.
* 32.1	Certification Pursuant to 18 U.S.C. 1350 (section 906 of Sarbannes-Oxley Act of 2002) – CEO.
* 32.2	Certification Pursuant to 18 U.S.C. 1350 (section 906 of Sarbannes-Oxley Act of 2002) – CFO.

* Filed herewith.
\+ Management Contract or Compensatory Plan.

Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, Matrix Service has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

MATRIX SERVICE

Date: August 15, 2005

Michael J. Hall, President

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated:

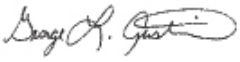
Signatures	Title	Date
 Michael J. Hall	Michael J. Hall President, Chief Executive Officer and Director (Principal Executive Officer)	August 15, 2005
 George L. Austin	George L. Austin Chief Financial Officer (Principal Financial and Accounting Officer)	August 15, 2005
 I. Edgar Hendrix	Chairman of the Board of Directors	August 15, 2005
 Hugh E. Bradley	Director	August 15, 2005
 Paul K. Lackey	Director	August 15, 2005
 Tom E. Maxwell	Director	August 15, 2005

Exhibit 3.5

MATRIX SERVICE COMPANY

**CERTIFICATE OF INCREASE OF AUTHORIZED NUMBER OF SHARES
OF SERIES B JUNIOR PARTICIPATING PREFERRED STOCK
PURSUANT TO SECTION 151 OF THE
GENERAL CORPORATION LAW OF THE
STATE OF DELAWARE**

Matrix Service Company, a corporation organized and existing under the General Corporation Law of Delaware (the "Company"),

DOES HEREBY CERTIFY:

FIRST: That the Certificate of the Designations, Preferences and Rights of the Series B Junior Participating Preferred Stock was filed with the office of the Secretary of State of Delaware on November 12, 1999.

SECOND: That the Board of Directors of the Company by a Unanimous Written Consent of the Board of Directors dated May 1, 2005, duly adopted a resolution authorizing and directing an increase in the authorized number of shares of Series B Participating Preferred Stock of the Company, from 200,000 shares to 300,000 shares.

IN WITNESS WHEREOF, the Company has caused this certificate to be signed by Michael J. Hall, its President, and attested by George L. Austin, its Secretary, this 11th day of July, 2005.

MATRIX SERVICE COMPANY

By: /s/ Michael J. Hall

Name: Michael J. Hall
Title: President

ATTEST:

/s/ George L. Austin

Name: George L. Austin
Title: Secretary

EXHIBIT 10.21

JPMorgan Chase Bank, N. A.

May 6, 2005

Matrix Service Company
Attn: Michael J. Hall, Chief Executive Officer
10701 East Ute Street
Tulsa, OK 74116

All Other Loan Parties Under the Credit
Agreement Described Below

Re: Credit Agreement dated as of March 7, 2003 among Matrix Service Company, as "Borrower," the Lenders described therein, and JPMorgan Chase Bank, N.A. (successor by merger to Bank One, N.A. (Main Office, Chicago)), as a Lender, LC Issuer, and as Agent for the Lenders, and others, as amended (as amended, the "Credit Agreement")

Gentlemen:

This is in regard to the above-referenced Credit Agreement. Capitalized terms not defined in this letter have the same meanings as in the Credit Agreement.

Borrower has asked for a waiver of certain provisions of the Credit Agreement and certain other Loan Documents as follows (such waivers the "Sale Waivers"): (i) a waiver of Sections 6.4 and 6.13 of the Credit Agreement to allow the sale outside the ordinary course of business by Matrix Service Specialized Transport, Inc., which was formerly known as Frank W. Hake, Inc. (the "Seller") (such sale the "Subject Sale"), of that certain equipment described on the attached Exhibit "A" (collectively the "Sale Equipment") to Barnhart Crane & Rigging Company (the "Buyer") for the amount of $1,470,000 (the "Gross Proceeds"), (ii) a waiver of the $250,000 limitation set forth in Section 2.7.2(i) of the Credit Agreement, such that the Subject Sale does not contribute to or count against such limitation, (iii) a waiver of the provisions in Section 2.1.5 of the Credit Agreement that would cause the reference to $10,000,000.00 in Section 2.1.5(i) to be reduced by the amount of proceeds received from the Subject Sale and (iv) a waiver of Section 4.1.5 of the Security Agreement by the Seller in favor of the Agent, to the extent the Subject Sale may be restricted, limited or prohibited by such Security Agreement.

Borrower has also asked for a waiver of certain provisions of the Credit Agreement (such waiver the "Perfection Certificate Waiver") so that Borrower may deliver to Agent the perfection certificate required by Section 7.26 of the Credit Agreement on or before the end of the Business Day on May 13, 2005.

Upon execution and delivery of this waiver letter and amendment by the Loan Parties, the Agent and Lenders constituting the Required Lenders, the Lenders shall have agreed to grant the Sale Waivers and the Perfection Certificate Waiver, provided that the Sale Waivers shall be withdrawn without any further action required on the part of the Agent or any of the Lenders, and be of no force or effect, if any one of the following occurs:

(a) the amount paid to the Seller by the Buyer on account of the Subject Sale is less than an amount equal to the Gross Proceeds less reasonable costs of the Subject Sale approved by Agent (the "Net Proceeds"),

(b) the Net Proceeds are not paid or deposited in a manner satisfactory to Agent,

(c) costs of the Subject Sale in addition to those deducted from the Gross Proceeds are not reasonably acceptable to the Agent, or

(d) the closing of the Subject Sale does not occur on or before May 13, 2005.

The waivers contained herein are limited to the Subject Sale and the date of delivery of the Perfection Certificate only and shall not waive any provisions of the Credit Agreement or any of the other Loan Documents as they may relate to any other facts and circumstances.

This waiver letter and amendment shall constitute a supplement and amendment to the Credit Agreement. From and after the date hereof, references in the Credit Agreement to "this Agreement" and like terms shall be deemed to be references to the Credit Agreement as supplemented by this waiver, and as otherwise amended, supplemented, restated or otherwise modified from time to time in accordance with the Loan Documents. References in the other Loan Documents to the Credit Agreement shall be deemed to be references to the Credit Agreement as supplemented by this waiver letter and amendment and as further amended, supplemented, restated or otherwise modified from time to time. This waiver letter and amendment is a Loan Document executed pursuant to the Credit Agreement and shall (unless otherwise expressly indicated therein) be construed, administered and applied in accordance with the terms and provisions of the Credit Agreement. The Credit Agreement as supplemented by this waiver letter and amendment is ratified and confirmed in all respects, and all other Loan Documents are hereby ratified and confirmed in all respects.

Except as expressly provided hereby, all of the representations, warranties, terms, covenants and conditions of the Credit Agreement and the other Loan Documents shall remain unamended and unwaived and shall continue to be, and shall remain, in full force and effect in accordance with their respective terms, including express limitations therein relating to the date on which such representations and warranties were made. The waiver and agreements set forth herein shall be limited precisely as provided for herein, and shall not be deemed to be a waiver of, amendment to, consent to or modification of any other term or provision of the Credit Agreement or of any event, condition, or transaction on the part of the Borrower or any other Person which would require the consent of the Agent or any of the Lenders.

The Borrower and each Loan Party, for itself and on behalf of all its predecessors, successors, assigns, agents, employees, representatives, officers, directors, general partners, limited partners, joint shareholders, beneficiaries, trustees, administrators, subsidiaries, affiliates, employees, servants and attorneys (collectively the "Releasing Parties"), hereby releases and forever discharges Agent and each Lender and their respective successors, assigns, partners, directors, officers, agents, attorneys, and employees from any and all claims, demands, cross-actions, controversies, causes of action, damages, rights, liabilities and obligations, at law or in equity whatsoever, known or unknown, whether past, present or future, now held, owned or possessed by the Releasing Parties, or any of them, or which the Releasing Parties or any of them may, as a result of any actions or inactions occurring on or prior to the date hereof, hereafter hold or claim to hold under common law or statutory right, arising, directly or indirectly out of any Loan or any of the Loan Documents or any of the documents, instruments or any other transactions relating thereto or the transactions contemplated thereby. Borrower and each Loan Party understands and agrees that this is a full, final and complete release and agrees that this release may be pleaded as an absolute and final bar to any or all suit or suits pending or which may hereafter be filed or prosecuted by any of the Releasing Parties, or anyone claiming by, through or under any of the Releasing Parties, in respect of any of the matters released hereby, and that no recovery on account of the matters described herein may hereafter be had from anyone whomsoever, and that the consideration given for this release is no admission of liability.

Please indicate your approval of the terms and provisions hereof by executing this letter in the space provided below.

This letter may be executed in any number of counterparts, all of which together shall constitute a single instrument, and it shall not be necessary that any counterpart be signed by all the parties hereto. A facsimile copy of this letter and signatures thereon shall be considered for all purposes as originals.

Yours very truly,

J. P. MORGAN CHASE BANK, N.A., as Agent

By: /s/ Hal E. Fudge

Hal E. Fudge, First Vice President

ACCEPTED AND AGREED TO:

Borrower:

MATRIX SERVICE COMPANY

By: /s/ Michael J. Hall

Michael J. Hall, Chief Executive Officer

Loan Parties:

MATRIX SERVICE INC., an Oklahoma corporation; **MATRIX SERVICE INDUSTRIAL CONTRACTORS, INC. (formerly known as MATRIX SERVICE MID-CONTINENT, INC.)**, an Oklahoma corporation; **MATRIX SERVICE, INC. CANADA**, an Ontario, Canada corporation; **HAKE GROUP, INC.,** a Delaware corporation; **BOGAN, INC. (including Fiberspec, a division)**, a Pennsylvania corporation; **MATRIX SERVICE SPECIALIZED TRANSPORT, INC. (formerly known as FRANK W. HAKE, INC.)**, a Pennsylvania corporation; **HOVER SYSTEMS, INC.**, a Pennsylvania corporation; **I & S, INC.**, a Pennsylvania corporation; **MCBISH MANAGEMENT, INC.,** a Pennsylvania corporation; **MECHANICAL CONSTRUCTION, INC.**, a Delaware corporation; **MID-ATLANTIC CONSTRUCTORS, INC.**, a Pennsylvania corporation; **TALBOT REALTY, INC.**, a Pennsylvania corporation; **BISH INVESTMENTS, INC.**, a Delaware corporation; **I & S JOINT VENTURE, L.L.C.,** a Pennsylvania limited liability company

By: /s/ George L. Austin

George L. Austin, Vice President

Lenders:

J. P. MORGAN CHASE BANK, N.A., as Agent

By: /s/ Hal E. Fudge

Hal E. Fudge, First Vice President

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Patrick McGovern

Patrick McGovern, Senior Vice President

UMB BANK, N.A.

By: /s/ Richard J. Lehrter

Richard J. Lehrter, Community Bank President

WELLS FARGO BANK, NA
(formerly known as Wells Fargo Bank Texas, NA)

By: /s/ Roger Fruendt

Roger Fruendt, Senior Vice President

INTERNATIONAL BANK OF COMMERCE,
successor in interest to
LOCAL OKLAHOMA BANK,
an Oklahoma Banking Corporation
formerly known as LOCAL OKLAHOMA BANK, NA,

By: /s/ David G. Moore

David G. Moore, Senior Vice President

EXHIBIT “A”

(Sale Equipment)

JPMorgan Chase Bank, N. A.

June 8, 2005

Matrix Service Company
Attn: Michael J. Hall, Chief Executive Officer
10701 East Ute Street
Tulsa, OK 74116

All Other Loan Parties Under the Credit
Agreement Described Below

Re: Credit Agreement dated as of March 7, 2003 among Matrix Service Company, as "Borrower," the Lenders described therein, and JPMorgan Chase Bank, N.A. (successor by merger to Bank One, N.A. (Main Office, Chicago)), as a Lender, LC Issuer, and as Agent for the Lenders, and others, as amended (as amended, the "Credit Agreement")

Gentlemen:

This is in regard to the above-referenced Credit Agreement. Capitalized terms not defined in this letter have the same meanings as in the Credit Agreement.

Sale Waivers. Borrower has asked for a waiver of certain provisions of the Credit Agreement and certain other Loan Documents as follows (such waivers collectively the "Sale Waivers"): (i) a partial waiver of Sections 6.4 and 6.13 of the Credit Agreement to allow sales outside the ordinary course of business by Borrower or one or more of its Subsidiaries (such Person who is the selling party is hereinafter referred to as the "Seller") of equipment that Borrower has determined to be surplus or not necessary for Borrower's business plans (the "Sale Equipment"), up to a maximum of $2,000,000 in aggregate gross sales starting May 24, 2005 (the "Subject Sales" and each a "Subject Sale"), (ii) a partial waiver of the provisions of Section 2.1.5 of the Credit Agreement so that the $10,000,000.00 amount set forth in Section 2.1.5(i) shall be reduced by the amount of proceeds received from any Subject Sale only to the extent that, on the date of Borrower's receipt of the first proceeds from such Subject Sale, there exists any outstanding principal balance of Revolver B, and (iii) a partial waiver of Section 4.1.5 of the Security Agreement by the Seller in favor of the Agent, to the extent the Subject Sales may be restricted, limited or prohibited by such Security Agreement.

The Lenders shall have agreed to grant the Sale Waivers upon the satisfaction of the following:

(a) execution and delivery of this waiver letter and amendment by the Loan Parties, the Agent and Lenders constituting the Required Lenders; and

(b) payment by Borrower of all currently invoiced legal fees of Agent and Lenders and all currently invoiced fees of Capstone Corporate Recovery, LLC.

Notwithstanding the foregoing, the Sale Waivers shall be applicable only to Subject Sales that meet the following requirements (collectively the "Subject Sale Requirements"):

(i) each Subject Sale shall be for cash paid to the Seller in full on or before delivery of the applicable Sale Equipment to the applicable buyer;

(ii) the purchase price for each item of Sale Equipment shall be no less than the fair market value of such item or such other amount acceptable to the Required Lenders;

(iii) all "Net Cash Proceeds" (as defined below) of each Subject Sale shall be paid to Agent immediately upon receipt by the applicable Loan Party for application to the Obligations as provided in the Credit Agreement; and

(iv) the Subject Sales must be closed and all Net Cash Proceeds paid to Agent on or before October 31, 2005.

The term "Net Cash Proceeds" in regard to any Subject Sale shall mean the amount of cash received by the Seller and all other Loan Parties on account of or arising from the closing of such Subject Sale minus the sum of the Seller's reasonable and necessary expenses incurred in connection with the negotiation and consummation of such Subject Sale.

The waivers described above are limited to Subject Sales that meet the Subject Sale Requirements and shall not waive any provisions of the Credit Agreement or any of the other Loan Documents as they may relate to any other facts and circumstances.

Appraisal Waiver. Borrower has also asked for a waiver of the provisions of Section 6.1(xvii) of the Credit Agreement until June 9, 2005 (the "Appraisal Waiver"). The Lenders shall have agreed to grant the Appraisal Waiver upon the satisfaction of (a) and (b) above. The Appraisal Waiver shall not waive any provisions of the Credit Agreement or any of the other Loan Documents as they may relate to any other facts and circumstances.

This waiver letter and amendment shall constitute a supplement and amendment to the Credit Agreement. From and after the date hereof, references in the Credit Agreement to "this Agreement" and like terms shall be deemed to be references to the Credit Agreement as supplemented by this waiver, and as otherwise amended, supplemented, restated or otherwise modified from time to time in accordance with the Loan Documents. References in the other Loan Documents to the Credit Agreement shall be deemed to be references to the Credit Agreement as supplemented by this waiver letter and amendment and as further amended, supplemented, restated or otherwise modified from time to time. This waiver letter and amendment is a Loan Document executed pursuant to the Credit Agreement and shall (unless otherwise expressly indicated therein) be construed, administered and

applied in accordance with the terms and provisions of the Credit Agreement. The Credit Agreement as supplemented by this waiver letter and amendment is ratified and confirmed in all respects, and all other Loan Documents are hereby ratified and confirmed in all respects.

Except as expressly provided hereby, all of the representations, warranties, terms, covenants and conditions of the Credit Agreement and the other Loan Documents shall remain unamended and unwaived and shall continue to be, and shall remain, in full force and effect in accordance with their respective terms, including express limitations therein relating to the date on which such representations and warranties were made. The waiver and agreements set forth herein shall be limited precisely as provided for herein, and shall not be deemed to be a waiver of, amendment to, consent to or modification of any other term or provision of the Credit Agreement or of any event, condition, or transaction on the part of the Borrower or any other Person which would require the consent of the Agent or any of the Lenders.

The Borrower and each Loan Party, for itself and on behalf of all its predecessors, successors, assigns, agents, employees, representatives, officers, directors, general partners, limited partners, joint shareholders, beneficiaries, trustees, administrators, subsidiaries, affiliates, employees, servants and attorneys (collectively the "Releasing Parties"), hereby releases and forever discharges Agent and each Lender and their respective successors, assigns, partners, directors, officers, agents, attorneys, and employees from any and all claims, demands, cross-actions, controversies, causes of action, damages, rights, liabilities and obligations, at law or in equity whatsoever, known or unknown, whether past, present or future, now held, owned or possessed by the Releasing Parties, or any of them, or which the Releasing Parties or any of them may, as a result of any actions or inactions occurring on or prior to the date hereof, hereafter hold or claim to hold under common law or statutory right, arising, directly or indirectly out of any Loan or any of the Loan Documents or any of the documents, instruments or any other transactions relating thereto or the transactions contemplated thereby. Borrower and each Loan Party understands and agrees that this is a full, final and complete release and agrees that this release may be pleaded as an absolute and final bar to any or all suit or suits pending or which may hereafter be filed or prosecuted by any of the Releasing Parties, or anyone claiming by, through or under any of the Releasing Parties, in respect of any of the matters released hereby, and that no recovery on account of the matters described herein may hereafter be had from anyone whomsoever, and that the consideration given for this release is no admission of liability.

Please indicate your approval of the terms and provisions hereof by executing this letter in the space provided below.

This waiver letter and amendment may be executed in any number of counterparts, all of which together shall constitute a single instrument, and it shall not be necessary that any counterpart be signed by all the parties hereto. A facsimile copy of this waiver letter and amendment and signatures thereon shall be considered for all purposes as originals.

Yours very truly,

J. P. MORGAN CHASE BANK, N.A., as Agent

By: /s/ Hal E. Fudge

Hal E. Fudge, First Vice President

ACCEPTED AND AGREED TO:

Borrower:

MATRIX SERVICE COMPANY

By: /s/ Michael J. Hall

Michael J. Hall, Chief Executive Officer

Loan Parties:

MATRIX SERVICE INC., an Oklahoma corporation; **MATRIX SERVICE INDUSTRIAL CONTRACTORS, INC. (formerly known as MATRIX SERVICE MID-CONTINENT, INC.)**, an Oklahoma corporation; **MATRIX SERVICE, INC. CANADA**, an Ontario, Canada corporation; **HAKE GROUP, INC.,** a Delaware corporation; **BOGAN, INC. (including Fiberspec, a division**), a Pennsylvania corporation; **MATRIX SERVICE SPECIALIZED TRANSPORT, INC. (formerly known as FRANK W. HAKE, INC.)**, a Pennsylvania corporation; **HOVER SYSTEMS, INC.**, a Pennsylvania corporation; **I & S, INC.**, a Pennsylvania corporation; **MCBISH MANAGEMENT, INC.,** a Pennsylvania corporation; **MECHANICAL CONSTRUCTION, INC.**, a Delaware corporation; **MID-ATLANTIC CONSTRUCTORS, INC.**, a Pennsylvania corporation; **TALBOT REALTY, INC.,** a Pennsylvania corporation; **BISH INVESTMENTS, INC.**, a Delaware corporation; **I & S JOINT VENTURE, L.L.C.,** a Pennsylvania limited liability company

By: /s/ George L. Austin

George L. Austin, Vice President

Lenders:

J. P. MORGAN CHASE BANK, N.A.

By: /s/ Hal E. Fudge

Hal E. Fudge, First Vice President

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Patrick McGovern

Patrick McGovern, Senior Vice President

UMB BANK, N.A.

By: /s/ Richard J. Lehrter

Richard J. Lehrter, Community Bank President

WELLS FARGO BANK, NA
(formerly known as Wells Fargo Bank Texas, NA)

By: /s/ Roger Fruendt

Roger Fruendt, Senior Vice President

INTERNATIONAL BANK OF COMMERCE,
successor in interest to
LOCAL OKLAHOMA BANK,
an Oklahoma Banking Corporation
formerly known as LOCAL OKLAHOMA BANK, NA,

By: /s/ Tom Travis

Tom Travis, President

EXHIBIT 10.24

AMENDMENT TEN TO CREDIT AGREEMENT

This Amendment Ten to Credit Agreement ("Amendment") is dated as of August 10, 2005 ("Effective Date"), among **MATRIX SERVICE COMPANY**, a Delaware corporation ("Borrower"), the Lenders described below, and **JPMORGAN CHASE BANK, N.A.** (successor by merger to Bank One, N.A. (Main Office Chicago)), as a Lender, LC Issuer and as Agent for the Lenders.

RECITALS

A. Lenders have provided credit facilities to Borrower pursuant to that certain Credit Agreement dated as of March 7, 2003, among Borrower, Agent and the various Lenders party thereto (the "Original Credit Agreement"), as amended by that certain Amendment One to Credit Agreement dated as of May 22, 2003, that certain Amendment Two to Credit Agreement dated as of August 27, 2003, that certain Amendment Three to Credit Agreement dated as of December 19, 2003, that certain Amendment Four to Credit Agreement dated as of March 11, 2004, that certain Amendment Five to Credit Agreement dated as of May 6, 2004, that certain Amendment Six to Credit Agreement dated as of August 5, 2004, that certain Amendment Seven to Credit Agreement dated as of October 6, 2004, that certain Amendment Eight to Credit Agreement dated as of November 30, 2004, that certain Amendment Nine to Credit Agreement dated as of April 22, 2005 and those certain letter agreements dated March 23, 2005, April 8, 2005, May 6, 2005, June 8, 2005 and July 20, 2005 (as amended, the "Credit Agreement").

B. Borrower has requested that the Lenders make certain modifications to the Credit Agreement and the Lenders and Agent have agreed, subject to the terms of this Amendment.

AGREEMENT

1. Definitions. Capitalized terms used but not defined in this Amendment (including the Recitals) shall have the meanings given to them in the Credit Agreement. All terms defined in the foregoing Recitals are incorporated herein by reference. The term "Loan Documents" is hereby amended to include the Credit Agreement, as amended by this Amendment, all as they may be further amended from time to time with the consent of the Agent and, to the extent required by the Credit Agreement, the Lenders. The term "Agreement", as used in the Credit Agreement, is hereby amended to mean the Credit Agreement, as amended by this Amendment and as it may be further amended from time to time with the consent of the Agent and, to the extent required by the Credit Agreement, the Lenders. The term "Credit Agreement" in all other Loan Documents is hereby amended to mean the Credit Agreement, as amended by this Amendment, as it may be further amended from time to time with the consent of the Agent and, to the extent required by the Credit Agreement, the Lenders.

The following defined terms shall hereafter mean the following, for purposes of this Amendment and the Credit Agreement as amended by this Agreement:

"Applicable Fee Rate" means, at any time, the percentage rate per annum at which Commitment Fees are accruing on the unused portion of the Aggregate Commitment at such time as

set forth as follows: (i) 0.625% per annum from August 1, 2005 through December 31, 2005 and (ii) 1.0% per annum from January 1, 2006 to the Facility Termination Date.

"Applicable Margin" means the percentage rate per annum which is applicable at such time with respect to the listed Loans and Advances as set forth below:

	Applicable Margin		Additional Accrued Margin	
Period	**Revolver & Term Loans**	**Revolver B Loans**	**Revolver & Term Loans**	**Revolver B Loans**
April 22, 2005 – April 30, 2005	1.00%	0%	1.00%	0%
May 1, 2005 – May 31, 2005	1.00%	0%	1.50%	0%
June 1, 2005 – June 30, 2005	1.00%	0%	2.00%	0%
July 1, 2005 – July 31, 2005	1.00%	0%	2.50%	0%
August 1, 2005 – August 31, 2005	1.00%	0%	3.00%	0%
September 1, 2005 – September 30, 2005	1.00%	0%	3.50%	0%
October 1, 2005 – October 31, 2005	1.00%	0%	4.00%	0%
November 1, 2005 – November 30, 2005	1.00%	0%	4.50%	0%
December 1, 2005 – December 31, 2005	1.00%	0%	5.00%	0%
January 1, 2006 – January 31, 2006	3.50%	3.50%	3.50%	3.50%
February 1, 2006 – February 28, 2006	4.75%	4.75%	2.50%	2.50%
March 1, 2006 – March 31, 2006	6.00%	6.00%	1.50%	1.50%
April 1, 2006 and thereafter	8.25%	8.25%	0.00%	0.00%

"Augmented Consolidated EBITDA" shall mean, for any period as to which Augmented Consolidated EBITDA is determined (the "AC EBITDA Test Period"), Consolidated EBITDA for such AC EBITDA Test Period plus the lesser of (i) $3,000,000.00 or (ii) the sum of the following:

(A) if one or more sales of assets approved by the Lenders has occurred and the proceeds of such sale(s) have been received by Agent during such AC EBITDA Test Period, then the aggregate for all such sales of the following: the amount, if any, by which (1) an amount equal to the Borrowing Base immediately after the closing of such sale minus the aggregate principal balance of the Revolving Loans measured immediately after the application of such proceeds, exceeds (2) an amount equal to the Borrowing Base immediately prior to the closing of such sale minus the aggregate principal balance of the Revolving Loans measured immediately prior to the application of such proceeds;

(B) federal and state tax refunds received during such period less the amount of any taxes paid that were added to Consolidated Net Income in order to calculate Consolidated EBITDA for the same period;

(C) reimbursements received during such period from customers for capital expenditures associated with the LNG Project to the extent that, during the same period, such capital expenditures actually occurred; and

(D) cash proceeds received during such period from the sale of any common stock, preferred stock, warrant or other equity (other than the exercise of stock options by employees, officers and directors) approved by the Lenders and from the issuance of any Subordinated Indebtedness approved by the Lenders.

"Consolidated EBITDA" means the following, all calculated for the Borrower and its Subsidiaries on a consolidated basis for any period:

Consolidated Net Income for such period

(i) plus, to the extent deducted in determining Consolidated Net Income, (A) Consolidated Interest Expense, (B) expenses for taxes paid or accrued, and (C) depreciation and amortization,

(ii) minus, to the extent included in Consolidated Net Income, (A) gains on sales of fixed assets, (B) extraordinary gains realized other than in the ordinary course of business, and (C) income tax benefits, and

(iii) plus, to the extent deducted in determining Consolidated Net Income, up to $3,000,000.00 in the aggregate of the following: (A) (1) fees to Capstone Corporate Recovery LLC, Gable & Gotwals or other counsel to the Lenders, Glass & Associates, and consultants retained by Borrower related to the reorganization of the Borrower's fabrication operations, (2) other expenses arising from the reorganization of Borrower's fabrication operations, (3) lease termination costs arising from the termination of leases occurring as a part of and during restructuring, and (4) costs and expenses related to the search for a replacement chief executive officer, but only to the extent paid or incurred on or before November 30, 2005; (B) severance payments and retention bonuses associated with restructuring; (C) legal fees and legal expenses incurred with regard to the enforcement and collection of the Large Disputed Accounts; (D) losses on sales of fixed assets approved by the Lenders and incurred prior to November 30, 2005; and (E) losses arising from the settlement of Large Disputed Accounts.

"Facility Termination Date" means June 30, 2006 or any earlier date on which the Aggregate Revolving Loan Commitments are reduced to zero or all Revolving Loan Commitments are otherwise terminated pursuant to the terms hereof.

"LNG Project" means the project related to the engineering and construction of three 160,000 cubic meter single containment Liquefied Natural Gas (LNG) tanks for Cheniere Energy, Inc.'s wholly owned limited partnership, Sabine Pass LNG, LP. pursuant to that certain Lump Sum Turnkey Agreement with Bechtel Corporation by Matrix Service Inc., in collaboration with Mitsubishi Heavy Industries, Ltd.'s wholly owned subsidiary, Diamond LNG LLC.

"Revolver B Borrowing Base" means at any time the lesser of

(i) $10,000,000.00 (which represents a portion of the total amount the Revolver B Lenders estimate is likely to be collected by Borrower in connection with the Large Disputed Accounts), and

(ii) an amount equal to the product of

(A) the lesser of (1) at any time, the net book value of the Large Disputed Accounts as determined under generally accepted accounting principles and reported in the Borrower's most recent Form 10-Q or 10-K as filed with the Securities and Exchange Commission, (2) the net book value of the Large Disputed Accounts as determined by Borrower, and (3) the lesser of the amount in (1) and (2) above minus any amounts by which the Large Disputed Accounts have been reduced since reported to the Securities and Exchange Commission or determined by the Borrower, as the case may be, due to any settlement agreement or compromise, payment, or order or judgment of any court or arbitrator(s),

(B) an amount no less than .40 and no greater than .60 that the Agent notifies Borrower in writing is determined by the Revolver B Lenders, provided that as of August 10, 2005 and until a notice to the contrary from the Agent to the Borrower, such amount is .50.

"Revolver B Termination Date" means June 30, 2006, or any earlier date on which the Revolving B Loan Commitment is reduced to zero or otherwise terminated pursuant to the terms hereof.

2. Amendments to Credit Agreement.

2.1. (a) The definition of "Aggregate Commitment" in the Credit Agreement is hereby amended by replacing the term "Revolving Credit Commitments" with the term "Aggregate Revolving Loan Commitments".

(b) The last sentence of the definition of "Revolver B Borrowing Base" is hereby deleted.

2.2. Section 2.19.4 of the Credit Agreement is hereby replaced with the following

2.19.4. LC Fees. The Borrower shall pay to the Agent, for the account of the Lenders ratably in accordance with their respective Pro Rata Shares, with respect to each Facility LC, a letter of credit fee at a per annum rate equal to these applicable percentages per annum on the average daily undrawn stated amount under such standby Facility LC, such fee to be payable in arrears on the last day of each calendar quarter (such fee described as the "LC Fee"): (i) 4.25% from August 1, 2005 through December 31, 2005 and (ii) 6.25% from January 1, 2006 and thereafter. The Borrower shall also pay to the LC Issuer for its own account (x) at the time of issuance of each Facility LC, a fronting fee equal to 0.25%, and (y) documentary and processing charges in connection with the issuance or Modification of and draws under Facility LCs in accordance with the LC Issuer's standard schedule for such charges as in effect from time to time.

2.3. A new Section 2.24 is hereby added to the Credit Agreement as follows:

2.24 Additional Fee. In addition to all other fees described herein, Borrower shall pay to Agent a fee in the amount set forth below, which fee is and

shall be considered a part of and included within the Obligations. Such fee shall be $1,000,000.00 if the Fee Calculation Date (defined below) is before December 31, 2005, and on December 31, 2005 and on the last day of each calendar month thereafter such fee shall increase by $100,000.00 until the Fee Calculation Date. This fee is the same as the fee (although different in amount) described in paragraph 1 of that certain letter agreement dated April 8, 2005 between Agent, the Loan Parties and the Lenders. Such fee shall be paid on or before the earlier of (A) the Facility Termination Date, (B) June 30, 2006 or (C) any payment in full of the Term Loan (the "Fee Due Date"), and such fee may not be prepaid. The Fee Calculation Date is the date that is the later of (i) the Fee Due Date and (ii) the date of payment of such fee to the Agent. Upon receipt, the Agent will apply such fee ratably among the Lenders, based upon their respective shares of the Aggregate Commitment at the time of such payment.

2.3 Section 2.7.2 of the Credit Agreement is hereby amended to read as follows:

2.7.2. Mandatory Prepayments. In addition to any scheduled installments due on the Loans, the following mandatory prepayments shall be made:

(i) Sale of Assets: Upon the sale, transfer or other disposition of any asset of the Borrower or any of its Subsidiaries (other than the sale of inventory in the ordinary course of business the sale of up to $250,000.00 of other assets per calendar year, the sale of any assets described in the letter agreement dated July 20, 2005 between the Borrower, Agent, Loan Parties and Lenders, and the sale of assets described in Section 2.7.2(x) below) which is permitted by the terms of the Loan Documents or authorized by the Lenders, the Borrower shall immediately make a mandatory prepayment of the Obligations in an amount equal to one hundred percent (100%) of the net proceeds realized from such sale, transfer or other disposition, and such payment shall be applied in the following order:

(a) to the Revolver B Loans (first all Obligations other than interest or principal, then principal), and after payment thereof,

(b) to the Term Loan (first all Obligations other than interest or principal, then principal in inverse order of maturity), and after payment thereof,

(c) to the Revolving Loans (first all Obligations other than interest or principal, and then principal), and after payment thereof,

(d) if and to the extent required at such time by the Revolver B Lenders, to some or all of the accrued interest on the Revolver B Loans, and after payment thereof,

(e) if and to the extent required at such time by the Required Lenders, to some or all of the accrued interest on either or both of the Term Loan and the Revolving Loans, and after payment thereof,

(f) if required at such time by the Required Lenders, to the Cash Collateralization of all LC Obligations, and thereafter,

(g) to any of the other remaining Obligations as the Required Lenders specify.

(ii) Sale of Stock: Upon the sale of any common stock, preferred stock, warrant or other equity (other than the exercise of stock options by employees, officers and directors) Borrower shall immediately make a mandatory prepayment of the Obligations in an amount equal to one hundred percent (100%) of the Net Cash Proceeds from such sale or issuance, and such payment shall be applied in the following order:

(a) to the Revolver B Loans (first all Obligations other than interest or principal, then principal), and after payment thereof,

(b) to the Obligations (other than interest) under the Term Loan or the Revolving Loans, or in part of both, as the Borrower may choose, provided that all prepayments on the Term Loan shall be applied first to principal installments thereunder in the inverse maturity thereof, then to any other such Obligations under the Term Loan, and after payment thereof,

(c) if and to the extent required at such time by the Revolver B Lenders, to some or all of the accrued interest on the Revolver B Loans, and after payment thereof,

(d) if and to the extent required at such time by the Required Lenders, to some or all of the accrued interest on either or both of the Term Loan and the Revolving Loans, and after payment thereof,

(e) if required at such time by the Required Lenders, to the Cash Collateralization of all LC Obligations, and thereafter.

(f) to any of the other remaining Obligations as the Required Lenders specify.

(iii) Issuance of Subordinated Indebtedness: Upon the receipt of proceeds from the issuance of any permitted Subordinated Indebtedness, other than the XYZ Subordinated Indebtedness, Borrower shall immediately make a mandatory prepayment of the Obligations in an amount

equal to one hundred percent (100%) of the Net Cash Proceeds from such sale or issuance, and such payment shall be applied in the following order:

(a) to the Revolver B Loans (first all Obligations other than interest or principal, then principal), and after payment thereof,

(b) to the Obligations (other than interest) under the Term Loan or the Revolving Loans, or in part of both, as the Borrower may choose, provided that all prepayments on the Term Loan shall be applied first to principal installments thereunder in the inverse maturity thereof, then to any other such Obligations under the Term Loan, and after payment thereof,

(c) if and to the extent required at such time by the Revolver B Lenders, to some or all of the accrued interest on the Revolver B Loans, and after payment thereof,

(d) if and to the extent required at such time by the Required Lenders, to some or all of the accrued interest on either or both of the Term Loan and the Revolving Loans, and after payment thereof,

(e) if required at such time by the Required Lenders, to the Cash Collateralization of all LC Obligations, and thereafter,

(f) to any of the other remaining Obligations as the Required Lenders specify.

(iv) Excess Cash Flow: On or before each date on which the Borrower's annual audited financial statements are required to be delivered pursuant to this Agreement, commencing with the fiscal year ending May 31, 2006, the Borrower shall make a mandatory prepayment in an amount equal to fifty percent (50%) of the Excess Cash Flow, if positive, for the most recently ended fiscal year. For purposes hereof, the term Excess Cash Flow, as to the applicable period, means Consolidated EBITDA, less (i) Consolidated Interest Expense, (ii) taxes paid, (iii) principal payments on the Term Loan, (iv) Capital Expenditures, and (v) dividends and distributions permitted in this Agreement. Such payment shall be applied in the following order:

(a) to the Revolver B Loans (first all Obligations other than interest or principal, then principal), and after payment thereof,

(b) to the Term Loan (first all Obligations other than interest or principal, then principal in inverse order of maturity), and after payment thereof,

(c) to the Revolving Loans (first all Obligations other than interest or principal, and then principal), and after payment thereof,

(d) if and to the extent required at such time by the Revolver B Lenders, to some or all of the accrued interest on the Revolver B Loans, and after payment thereof,

(e) if and to the extent required at such time by the Required Lenders, to some or all of the accrued interest on either or both of the Term Loan and the Revolving Loans, and after payment thereof,

(f) if required at such time by the Required Lenders, to the Cash Collateralization of all LC Obligations, and thereafter,

(g) to any of the other remaining Obligations as the Required Lenders specify.

(v) Borrowing Base Deficiency. If the aggregate principal amount of the outstanding Revolving Loans and LC Obligations as of any date exceeds the Borrowing Base, the Borrower shall immediately make a mandatory principal payment on the Revolving Loans necessary to establish compliance. Likewise, if the aggregate principal amount of outstanding Revolver B Loans as of any date exceeds the Revolver B Borrowing Base, the Borrower shall immediately make a mandatory principal payment on the Revolving B Loans necessary to establish compliance.

(vi) Collections of Large Disputed Accounts. Upon the receipt of any proceeds from the collection of any Large Disputed Accounts, Borrower shall immediately make a mandatory prepayment of the Obligations in an amount equal to one hundred percent (100%) of such proceeds. Such payment shall be applied in the following order:

(a) to the Revolver B Loans (first all Obligations other than interest or principal, then principal), and after payment thereof,

(b) to the Obligations under the Revolving Loans (first to all Obligations other than interest or principal, and then principal), and then to the Obligations under the Term Loan (first all Obligations other than interest or principal, then principal in inverse order of maturity), up to an amount so that the aggregate amount applied to principal of Revolving Loan B, the Revolving Loans and the Term Loan under Sections 2.7.2(vi)(a) and this Section 2.7.2(vi)(b) equals the lesser of (i) $10,000,000 or (ii) such lesser amount to which the $10,000,000 amount referenced in Section

2.1.5(i) has been reduced pursuant to the last sentence of Section 2.1.5, and after payment of such amount,

(c) (1) thirty percent (30%) of the remaining proceeds in this order:

(A) to the Revolving Loans (first to all Obligations other than interest or principal, and then to principal), and then,

(B) to the Term Loan (first to all Obligations thereunder other than interest or principal, then principal in the inverse order of maturity thereof), and then

(C) As provided in (d), (e) and (f) below, and

(2) seventy percent (70%) of the remaining proceeds in this order:

(A) to the Term Loan (first to all Obligations thereunder other than interest or principal, then principal in the inverse order of maturity thereof), and then,

(B) to the Revolving Loans (first to all Obligations other than interest or principal, and then to principal), and then,

(C) As provided in (d), (e) and (f) below, and

(d) if and to the extent required at such time by the Revolver B Lenders, to some or all of the accrued interest on the Revolver B Loans, and after payment thereof,

(e) if and to the extent required at such time by the Required Lenders, to some or all of the accrued interest on either or both of the Term Loan and the Revolving Loans, and after payment thereof,

(f) if required at such time by the Required Lenders, to the Cash Collateralization of all LC Obligations, and thereafter,

(g) to any of the other remaining Obligations as the Required Lenders specify.

(vii) Excess Cash. If at any time Borrower and the Subsidiaries own or hold Non-Earmarked Cash such that there is any Excess Cash Amount, Borrower shall immediately make a mandatory prepayment of the Obligations in an amount equal to the Excess Cash Amount, and such payment shall be in the following order:

(a) to the Revolver B Loans (first all Obligations other than interest or principal, then principal), and after payment thereof,

(b) to the Obligations (other then interest) under the Term Loan or the Revolving Loans, or in part of both, as the Borrower may choose, provided that all prepayments on the Term Loan shall be applied first to principal installments thereunder in the inverse maturity thereof, then to any other such Obligations under the Term Loan, and after payment thereof,

(c) if and to the extent required at such time by the Revolver B Lenders, to some or all of the accrued interest on the Revolver B Loans, and after payment thereof,

(d) if and to the extent required at such time by the Required Lenders, to some or all of the accrued interest on either or both of the Term Loan and the Revolving Loans, and after payment thereof,

(e) if required at such time by the Required Lenders, to the Cash Collateralization of all LC Obligations, and thereafter,

(f) to any of the other remaining Obligations as the Required Lenders specify.

(viii) Accounts Receivable. If no Default or Unmatured Default has occurred and is continuing, immediately upon collection of any Account (other than Large Disputed Accounts) Borrower shall immediately (i) if such payment is required in accordance with the first sentence of Section 2.7.2.(v) to establish compliance with the Borrowing Base, make a mandatory principal payment in an amount necessary to establish compliance with the Borrower Base, to be applied to the Revolving Loans, and (ii) make a mandatory prepayment on the Revolver B Loans if and to the extent there are any Obligations outstanding under the Revolver B Loans. If a Default or Unmatured Default has occurred and is continuing, immediately upon collection of any Account (other than Large Disputed Accounts) Borrower shall immediately make a mandatory payment in an amount equal to the full amount collected, provided that (A) such prepayment shall first be applied in accordance with Section 2.7.3 and (B) the remainder of such prepayment shall be applied as specified by the Required Lenders.

(ix) Unmatured Default or Default. If any Unmatured Default or Default has occurred and is continuing at the time of any of the events or circumstances described in Sections 2.7.2(i) through (vii) that result in the obligation to make a mandatory prepayment, Borrower shall make the

mandatory prepayments required by Sections 2.7.2(i) through (vii); provided that (A) such prepayments shall first be applied in accordance with Section 2.7.3 and (B) the remainder of such prepayments shall be applied as specified by the Required Lenders, notwithstanding any contrary provision in Sections 2.7.2(i) through (vii).

(x) Sale Waivers. Lenders agree to the following (the "Sale Waivers"): (i) notwithstanding Sections 6.4 and 6.13 of this Agreement, Borrower or one or more of its Subsidiaries may sell, outside the ordinary course of business (such Person who is the selling party is hereinafter referred to as the "Seller"), the property described on the attached Exhibit "B" (the "Sale Property") (which property Borrower has determined to be surplus, not necessary for Borrower's business plans or otherwise in the Borrower's best interests to sell), according to the terms set forth on Exhibit "B" or referred to in Exhibit "B" (the "Subject Sale"), (ii) notwithstanding the provisions of Section 2.1.5 of the Credit Agreement, the $10,000,000.00 amount set forth in Section 2.1.5(i) shall be reduced by the amount of proceeds received from the Subject Sale only to the extent that, on the date of Borrower's receipt of the first proceeds from such Subject Sale, there exists any outstanding principal balance of Revolver B, and (iii) notwithstanding Section 4.1.5 of the Security Agreement and Exhibit B, paragraph 8 of the applicable Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement (the "Mortgage") by the Seller in favor of the Agent, the Subject Sale is not restricted, limited or prohibited by the Mortgage. The Sale Waivers are subject to the satisfaction of all the conditions precedent to the effectiveness of this Amendment. Notwithstanding the foregoing, the Sale Waivers shall be applicable only if the Subject Sale meets the following requirements (collectively the "Subject Sale Requirements"):

(i) except as specifically set forth on Exhibit "B", the Subject Sale shall be for cash paid to the Seller in full on or before closing and before transfer of possession or delivery of the applicable Sale Property to the purchaser;

(ii) the sale price for the Sale Property shall be no less than the amount set forth on Exhibit "B" unless otherwise agreed by the Required Lenders;

(iii) all other terms of the Subject Sale shall be in accordance with Exhibit "B";

(iv) all "Net Cash Sale Proceeds" (as defined below) of the Subject Sale shall be paid to Agent immediately upon receipt by the applicable Loan Party for application to the Obligations as provided in Exhibit "B";

(v) all requirements relating to the Subject Sale set forth on Exhibit "B" are met;

(vi) the definitive agreements for the Subject Sale shall be acceptable to Agent and Agent's counsel;

(vii) the Subject Sale must be closed and all Net Cash Sale Proceeds paid to Agent on or before September 30, 2005; and

(viii) within two (2) Business Days of closing the Subject Sale, Borrower shall deliver to Agent a completed Borrowing Base Certificate prepared as of the time immediately after closing of such Subject Sale, certified by the chief financial officer of the Borrower.

The term "Net Cash Sale Proceeds" in regard to any Subject Sale shall mean the amount of cash received by the Seller and all other Loan Parties on account of or arising from the closing of such Subject Sale minus the sum of the Seller's reasonable and necessary expenses incurred in connection with the negotiation and consummation of such Subject Sale. To the extent the Sales Waivers are applicable to any particular Sale Property, Agent shall, and is authorized by all Lenders to, release all mortgages, liens and security interests encumbering such Sale Property upon receipt by Agent of Net Cash Sale Proceeds from the applicable Subject Sale in an amount greater than or equal to (or constituting) the Release Price reflected on Exhibit "B" or such other amount as may be authorized by the Required Lenders.

The Sale Waivers are limited to the Subject Sale provided that it meets the Subject Sale Requirements and shall not waive any provisions of the Credit Agreement or any of the other Loan Documents as they may relate to any other facts and circumstances. The Subject Sale is mutually exclusive of those Subject Sales (the "Other Subject Sales") described in that certain waiver letter and amendment dated on or about July 20, 2005 (the "Waiver Letter", a true and complete copy of which is attached hereto as Exhibit "C" and made a part hereof), and none of the Other Subject Sales shall be affected or addressed by the terms of this Agreement, nor shall the Subject Sale be affected or addressed by the Waiver Letter.

2.5 Section 2.23 of the Credit Agreement is amended by replacing the term "this Section 2.21" with "this Section 2.23". The definition of "Highest Lawful Rate" is hereby amended by deleting the last sentence of such definition in its entirety.

2.5 Section 6.27 of the Credit Agreement is hereby amended to read as follows:

6.27 Financial Covenants.

6.27.1. Minimum Augmented Consolidated EBITDA. The Borrower will not permit Augmented Consolidated EBITDA for each test period set forth below, as determined on the designated test date for each such period, to be less than the minimum amount set forth opposite such period:

TEST PERIODS	MINIMUM AUGMENTED CONSOLIDATED EBITDA	TEST DATE
June 1, 2005 through August 31, 2005	$ 4,135,000.00	September 30, 2005
June 1, 2005 through November 30, 2005	$ 7,493,000.00	December 31, 2005
June 1, 2005 through February 28, 2006	$ 10,651,000.00	March 31, 2006
June 1, 2005 through May 31, 2006	$ 15,302,000.00	June 30, 2006

6.27.2. Senior Fixed Charge Coverage Ratio. The Borrower will not permit the following ratio, determined as of the end of each of the fiscal quarters of Borrower, to be less than 1.00: (i) Augmented Consolidated EBITDA for the fiscal year to date, minus cash dividends and cash distributions made or paid during the same period, to (ii) (A) scheduled current maturities of the Term Loan for the fiscal year to date, plus (B) scheduled current maturities of the Hake Group Acquisition carry-back financing for the fiscal year to date, plus (C) Consolidated Interest Expense for the year to date (excluding amounts included in Consolidated Interest Expense for (1) amortization of deferred financing fees, (2) amortization of pre-paid interest related to the XYZ Subordinated Obligations, (3) accretion related to the Hake Group Acquisition carry-back financing and (4) interest attributable to the Additional Accrued Margin that is neither paid nor due and payable during the fiscal year to date), plus (D) current maturities on Capitalized Leases for the fiscal year to date, plus (E) Capital Expenditures paid during such fiscal year to such date.

6.27.3 Debt Service Coverage Ratio. The Borrower will not permit the ratio, determined as of the end of each of its fiscal quarters, of (i) Consolidated EBITDA for the fiscal year to date, minus cash dividends and cash distributions made or paid during the same period, to (ii) (A) scheduled current maturities of the Term Loan for the fiscal year to date, plus (B) scheduled current maturities of the Hake Group Acquisition carry-back financing for the fiscal year to date, plus (C) Consolidated Interest Expense for the year to date (excluding amounts included in Consolidated Interest Expense for (1) amortization of deferred financing fees, (2) amortization of pre-paid interest related to the XYZ Subordinated Obligations, (3) accretion related to the Hake Group Acquisition carry-back financing and (4) interest attributable to the Additional Accrued Margin that is neither paid nor due and payable during the fiscal year to date), plus (D) current maturities on Capitalized Leases for the fiscal year to date, to be less than the following:

1.43 for the period ending August 31, 2005
1.65 for the period ending November 30, 2005
1.65 for the period ending February 28, 2006
1.38 for the period ending May 31, 2006.

2.6 The following is hereby added immediately prior to the penultimate sentence of Section 2.5 of the Credit Agreement: “The Borrower agrees to pay to the Agent for the account of

each Revolver B Lender a commitment fee at a per annum rate equal to the Applicable Fee Rate on the daily unused portion of such Revolver B Lender's Revolving B Loan Commitment from August 1, 2005 to and including the Revolver B Termination Date, payable on each Payment Date hereafter and on the Revolver B Termination Date."

2.7 A new Section 6.29 is hereby added to the Credit Agreement as follows:

6.29 Landlord Waivers. Upon request of Agent, Borrower shall use its best efforts to obtain written landlord waivers in form acceptable to Agent from all landlords of property leased to Borrower or any other Loan Party, waiving any landlord's lien or other interest in any personal property or fixtures of Borrower or such Loan Party located at any leased premises.

3. June 8, 2005 Waiver Letter. That certain letter agreement dated June 8, 2005 between the Agent, the Lenders and the Borrower is hereby cancelled and of no further force and effect.

4. Conditions of this Amendment. The obligations of Agent and Lenders under this Amendment shall become effective upon the satisfaction of the following conditions precedent:

4.1. Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed, each dated the same date as this Amendment (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to Agent and its legal counsel:

4.1.1. executed counterparts of this Amendment and all other documents and instruments requested by Agent, sufficient in number for distribution to each Lender and Borrower;

4.1.2. such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as Lender may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Amendment and the other Loan Documents to which such Loan Party is a party;

4.1.3. such documents and certificates as Agent may reasonably require to evidence that each Loan Party is duly organized or formed and that Borrower is, validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

4.1.4. fully executed originals of the Ratification of Security Agreement and Ratification of Guaranty Agreement, in the forms set forth on Schedules "1-A" and "1-B", respectively, attached hereto, for each party thereto.

4.2. Agent's receipt of such other assurances, certificates, documents, instruments, agreements, consents, evidence of perfection of all Liens securing the Obligations and opinions as Agent reasonably may require.

4.3. Unless waived by Agent, Borrower shall have paid (i) all fees, expenses and disbursements of any law firm or other external counsel for Agent and Lenders and of Capstone

Corporate Recovery, LLC, to the extent invoiced prior to the date hereof, plus (ii) such additional amounts of such fees, expenses and disbursements of such counsel as shall constitute its reasonable estimate thereof incurred or to be incurred by it through the closing proceedings as to this Amendment (provided that such estimate shall not thereafter preclude a final settling of accounts between Borrower and Agent).

4.4. Original certificates of title as to motor vehicles of any of the Loan Parties that Agent may request.

4.5. Guaranty Agreements by any Subsidiary of Borrower that is not currently party to a Guaranty Agreement.

4.6. Security Agreements by any Subsidiary of Borrower that is not currently party to a Security Agreement.

5. Representations and Warranties. Borrower certifies, covenants, represents and warrants to and with Agent and Lenders that, after giving effect to the amendments to the Credit Agreement contemplated by this Amendment: (i) no Default or Unmatured Default exists; (ii) attached as Exhibit "A" is a full and complete list of all Borrower's Subsidiaries as of the date of this Amendment; and (iii) the representations and warranties contained in Article V of the Credit Agreement are true and correct as of the date hereof, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct on and as of such earlier date.

6. Defaults Unaffected. Except as may be expressly set forth herein, nothing contained in this Amendment shall prejudice, act as, or be deemed to be a waiver of any Default or Unmatured Default or any right or remedy available to Agent or any Lender by reason of the occurrence or existence of any fact, circumstance or event constituting a Default or Unmatured Default.

7. Releases. Borrower, for itself and on behalf of all its predecessors, successors, assigns, agents, employees, representatives, officers, directors, general partners, limited partners, joint shareholders, beneficiaries, trustees, administrators, subsidiaries, affiliates, employees, servants and attorneys (collectively the "Releasing Parties"), hereby releases and forever discharges Agent and each Lender and their respective successors, assigns, partners, directors, officers, agents, attorneys, and employees from any and all claims, demands, cross-actions, controversies, causes of action, damages, rights, liabilities and obligations, at law or in equity whatsoever, known or unknown, whether past, present or future, now held, owned or possessed by the Releasing Parties, or any of them, or which the Releasing Parties or any of them may, as a result of any actions or inactions occurring on or prior to the Effective Date, hereafter hold or claim to hold under common law or statutory right, arising, directly or indirectly out of the Loan or any of the Loan Documents or any of the documents, instruments or any other transactions relating thereto or the transactions contemplated thereby.

Borrower understands and agrees that this is a full, final and complete release and agrees that this release may be pleaded as an absolute and final bar to any or all suit or suits pending or which may hereafter be filed or prosecuted by any of the Releasing Parties, or anyone claiming by, through or under any of the Releasing Parties, in respect of any of the matters released hereby, and that no recovery on account of the matters described herein may hereafter be had from anyone whomsoever, and that the consideration given for this release is no admission of liability.

8. USA PATRIOT Act Notice. Agent hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "Patriot Act"), it and the Lenders are or may be required to obtain, verify and record information that identifies the Borrower and the other Loan Parties, which information includes the name and address of the Borrower and the other Loan Parties and other information that will allow Agent and Lenders to identify the Borrower and the other Loan Parties in accordance with the Patriot Act.

9. Reimbursement. Borrower agrees to reimburse Agent for any costs, expenses, and fees (including reasonable attorney fees) incurred in connection with the preparation of this Amendment and all documents, instruments and agreements contemplated hereby or that may be executed in conjunction herewith.

10. Governing Law. This Amendment shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Oklahoma.

11. Counterparts. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Amendment by signing any such counterpart. This Amendment shall be effective when it has been executed by the Borrower, the Agent, the LC Issuer and the Lenders and each party has notified the Agent by facsimile transmission or telephone that it has taken such action.

IN WITNESS WHEREOF, the Borrower, the Lenders, the LC Issuer and the Agent have executed this Amendment as of the date first above written.

MATRIX SERVICE COMPANY

By: /s/ George L. Austin

George L. Austin, Vice President
Notice Address: 10701 East Ute Street
Tulsa, OK 74116
Attention: George L. Austin, Vice President
Telephone: (918) 838-8822
FAX: (918) 838-8810

JPMORGAN CHASE BANK, N.A. (successor by merger to Bank One, N.A. (Main Office Chicago)) Lender, LC Issuer and as Agent

By: /s/ Hal E. Fudge

Hal E. Fudge, First Vice President

Notice Address: Mail Code TX1-2454
P.O. Box 655415
Dallas, Texas 75265-5415
Attention: Hal E. Fudge, First Vice President
Telephone: (214) 290-2799
FAX: (214) 290-2740

INTERNATIONAL BANK OF COMMERCE,
successor in interest to LOCAL OKLAHOMA BANK, an Oklahoma Banking Corporation,
formerly known as LOCAL OKLAHOMA BANK, NA

By: /s/ David G. Moore

David G. Moore, Senior Vice President

Notice Address: 3601 NW 63rd
Oklahoma City, OK 73116
Attention: David G. Moore, Senior Vice President
Telephone: (405) 841-2966
FAX: (405) 841-2375

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Patrick A. McGovern

Patrick A. McGovern, Sr. Vice President

Notice Address: 123 South Broad Street
14th Floor – PA1246
Philadelphia, PA 19109
Attention: Patrick A. McGovern, Sr. Vice President
Telephone: (215) 670-6620
FAX: (215) 670-6645

UMB BANK, N.A.

By: /s/ Michael P. Nash

Michael P. Nash, Senior Vice President

Notice Address: 1437 South Boulder Avenue
Suite 150
Tulsa, OK 74119

Attention: Michael P. Nash, Senior Vice President
Telephone: (918) 295-2003
FAX: (918) 295-2020

WELLS FARGO BANK, NA (formerly known as Wells Fargo Bank Texas, NA)

By: /s/ Roger Fruendt

Roger Fruendt, Senior Vice President

Notice Address: 1000 Louisiana Street
MS T5001-047
Fourth Floor
Houston, TX 77002

Attention: Roger Fruendt, Senior Vice President
Telephone: (713) 319-1403
FAX: (713) 739-1076

INDEX OF EXHIBITS AND SCHEDULES

Exhibit A	-	List of Subsidiaries
Exhibit B	-	Sale Property
	Schedule B-1	Assets to be Sold
	Schedule B-2	Allentech Division
Exhibit C	-	July 20, 2005 Waiver Letter

EXHIBIT "A"

(BORROWER'S SUBSIDIARIES)

Matrix Service Inc., an Oklahoma corporation
Matrix Service Inc., an Ontario, Canada corporation
Hake Group, Inc., a Delaware corporation
Bogan, Inc. (including Fiberspec, a division), a Pennsylvania corporation
Hover Systems, Inc., a Pennsylvania corporation
I&S, Inc., a Pennsylvania corporation
McBish Management, Inc., a Pennsylvania corporation
Mechanical Construction, Incorporated, a Delaware corporation
Mid-Atlantic Constructors, Inc., a Pennsylvania corporation
Talbot Realty, Inc., a Pennsylvania corporation
Bish Investments, Inc., a Delaware corporation
I & S Joint Venture, L.L.C., a Pennsylvania limited liability company
Matrix Service Industrial Contractors, Inc., an Oklahoma corporation
Matrix Service Specialized Transport, Inc., a Pennsylvania corporation
San Luis Tank S.A. de C.V., a Mexican corporation
Matrix Service, Inc., Panama, a Panama corporation
Matrix Service Industrial Contractors Canada, Inc., a Delaware corporation
Matrix Service Industrial Contractors ULC, a Nova Scotia unlimited company

Exhibit "B"

Common Name	Legal Description of Any Real Property Included (As Applicable)	Price	Release Price	Payment and Certain Other Terms	Application of Net Sale Proceeds after Receipt by Agent
Allentech Division	See Schedule B-1	$3,150,000	$3,100,000 plus pledge and assignment of all Seller's rights to receive the additional $350,000 and all related rights in form acceptable to Agent, and with documents evidencing such obligation also in form acceptable to Agent	Net Cash Sale Proceeds (less $350,000) paid at closing, plus an additional $350,000 paid in cash on or before the date one year after closing. Buyer's obligation to pay the $350,000 to be secured by a letter of credit or other adequate security with Borrower's and Seller's rights therein to be pledged and assigned to Agent to secure repayment of the Loans pursuant to documentation acceptable to Agent	Of Net Cash Sale Proceeds received at closing, 1/2 to be applied to principal balance of the Term Loan in the inverse order of maturity, the other 1/2 to be applied to the principal balance of the Revolving Loan (but not Revolving B Loan) (with no corresponding decrease in the Revolving Loan Commitment). The final payment of $350,000 (and all interest thereon) shall be applied to the principal balance of the Revolving Loan (with no corresponding decrease in the Revolving Loan Commitment). Notwithstanding the foregoing, if as of the date of receipt of any such proceeds an Unmatured Default or Default has occurred and is continuing, all proceeds shall be applied as specified by the Required Lenders

SCHEDULE B-1

Description of Assets to be Sold

Allentech Division-3174-3194 Airport Road, Bethlehem, PA

The assets to be sold are not necessarily all those assets that Borrower has assigned to or categorized as part of the Allentech Division. The assets to be sold are described on the attached Schedule B-2. The Allentech division is a light manufacturer/assembler of aluminum roofs.

SCHEDULE B-2

(Allentech Division)

All the following assets assigned or attributed to Borrower's Allentech Division ("Allentech"):

* all tradenames, trademarks, servicemarks, logos and promotional materials (in all media) and other intellectual property rights, all leases and vendor contracts, trade secrets and customer lists and all furniture, fixtures, machinery, equipment, inventory, raw materials, work in progress, contracts for Allentech's goods or services, cash and accounts receivable and all other assets used primarily in the operation of or necessary to Allentech's business, excluding all assets utilized in the Allentech-Tulsa, Oklahoma operations.

EXHIBIT 10.25

JPMorgan Chase Bank, N. A.

August 10, 2005

Matrix Service Company
10701 East Ute Street
Tulsa, Oklahoma 74116

All Other Loan Parties Under the Credit
Agreement Described Below

Re: Credit Agreement dated as of March 7, 2003 among Matrix Service Company, as "Borrower," the Lenders described therein, and JPMorgan Chase Bank, N.A. (successor by merger to Bank One, N.A. (Main Office, Chicago)), as a Lender, LC Issuer, and as Agent for the Lenders, and others, as amended (as amended, the "Credit Agreement")

Gentlemen:

This is in regard to the above-referenced Credit Agreement. Capitalized terms not defined in this letter have the same meanings as in the Credit Agreement.

Borrower has asked for waivers of certain provisions of the Credit Agreement, and the Agent and undersigned Lenders agree to grant such waivers, pursuant and according to the terms of this letter.

The Agent and undersigned Lenders hereby waive the requirements of Section 6.27.1 and 6.27.2 of the Credit Agreement, as those sections existed prior to the effectiveness of that certain Amendment Ten to Credit Agreement dated August 10, 2005 (the "Credit Agreement Through Amendment Nine"), and as such sections apply to the fiscal quarter ended May 31, 2005, but only if (i) as to Section 6.27.1 of the Credit Agreement Through Amendment Nine, Consolidated EBITDA (increased as provided in such section) is greater than or equal to $2,596,000.00 and (ii) as to Section 6.27.2 of the Credit Agreement Through Amendment Nine, the Fixed Charge Coverage Ratio (calculated as provided in such section) is greater than or equal to 0.925, provided:

(A) in each case, that "non-recurring extraordinary professional fees and restructuring charges" under such sections includes only the following to the extent applicable to that period and subject to all the other provisions of the Credit Agreement Through Amendment Nine:

(1) fees to Capstone Corporate Recovery LLC, appraisers for real property and/or equipment appraisals conducted in connection with refinancing, Gable & Gotwals or other counsel to the Lenders, Glass & Associates, and consultants retained by Borrower related to the reorganization of the Borrower's fabrication operations,

(2) costs and expenses for the search for a replacement chief executive officer (but not including the differential between the compensation of the current interim chief executive officer and the former chief executive officer),

(3) severance payments and retention bonuses associated with restructuring (but not including salaries and other payroll expenses of terminated employees for periods during their employment),

(4) legal fees and legal expenses incurred with regard to the enforcement and collection of the Large Disputed Accounts, and

(5) legal and auditing fees and expenses associated with Borrower's S-3 filing, and

(B) under Section 6.27.2 of the Credit Agreement Through Amendment Nine, the term "non-cash interest" includes only the following to the extent applicable to such period and subject to all the other provisions of the Credit Agreement Through Amendment Nine:

(1) amortization of deferred financing fees (excluding fees paid in connection with Amendment Nine to the Credit Agreement),

(2) accretion related to the Hake Group Acquisition carry-back financing,

(3) amortization of pre-paid interest related to the XYZ Subordinated Obligations, and

(4) interest attributable to the Additional Accrued Margin that was neither paid nor due and payable during such fiscal quarter, and

(C) under Section 6.27.2 of the Credit Agreement Through Amendment Nine, the term "…scheduled current maturities of long-term debt (determined according to generally accepted accounting practices) for the most recently ended fiscal quarter…" shall exclude, for such quarter, any principal payments on the Hake Group Acquisition carry-back financing.

The waiver described above is limited to the specific provisions and time period described above and shall not waive any provisions of the Credit Agreement or any of the other Loan Documents as they may relate to any other facts and circumstances. Except as expressly provided hereby, all of the representations, warranties, terms, covenants and conditions of the Credit Agreement and the other Loan Documents shall remain unamended and unwaived and shall continue to be, and shall remain, in full force and effect in accordance with their respective terms, including express limitations therein relating to the date on which such representations and warranties were made. The waiver and agreements set forth herein are limited precisely as provided for herein, and

shall not be deemed to be a waiver of, amendment to, consent to or modification of any other term or provision of the Credit Agreement or of any event, condition, or transaction on the part of the Borrower or any other Person which would require the consent of the Agent or any of the Lenders.

The Borrower and each Loan Party, for itself and on behalf of all its predecessors, successors, assigns, agents, employees, representatives, officers, directors, general partners, limited partners, joint shareholders, beneficiaries, trustees, administrators, subsidiaries, affiliates, employees, servants and attorneys (collectively the "Releasing Parties"), hereby releases and forever discharges Agent and each Lender and their respective successors, assigns, partners, directors, officers, agents, attorneys, and employees from any and all claims, demands, cross-actions, controversies, causes of action, damages, rights, liabilities and obligations, at law or in equity whatsoever, known or unknown, whether past, present or future, now held, owned or possessed by the Releasing Parties, or any of them, or which the Releasing Parties or any of them may, as a result of any actions or inactions occurring on or prior to the date hereof, hereafter hold or claim to hold under common law or statutory right, arising, directly or indirectly out of any Loan or any of the Loan Documents or any of the documents, instruments or any other transactions relating thereto or the transactions contemplated thereby. Borrower and each Loan Party understands and agrees that this is a full, final and complete release and agrees that this release may be pleaded as an absolute and final bar to any or all suit or suits pending or which may hereafter be filed or prosecuted by any of the Releasing Parties, or anyone claiming by, through or under any of the Releasing Parties, in respect of any of the matters released hereby, and that no recovery on account of the matters described herein may hereafter be had from anyone whomsoever, and that the consideration given for this release is no admission of liability.

Please indicate your approval of the terms and provisions hereof by executing this letter in the space provided below.

This letter may be executed in any number of counterparts, all of which together shall constitute a single instrument, and it shall not be necessary that any counterpart be signed by all the parties hereto. A facsimile copy of this letter and signatures thereon shall be considered for all purposes as originals.

JPMORGAN CHASE BANK, N.A. (successor by merger to Bank One, NA), as Agent

/s/ Hal E. Fudge

Hal E. Fudge, First Vice President

ACCEPTED AND AGREED TO:

Borrower:

MATRIX SERVICE COMPANY

By: /s/ George L. Austin

George L. Austin, Vice President

Loan Parties:

MATRIX SERVICE INC., an Oklahoma corporation; **MATRIX SERVICE INDUSTRIAL CONTRACTORS, INC.** (**formerly known as MATRIX SERVICE MID-CONTINENT, INC.)**, an Oklahoma corporation; **MATRIX SERVICE INC.**, an Ontario, Canada corporation; **HAKE GROUP, INC.,** a Delaware corporation; **BOGAN, INC.** (**including Fiberspec, a division**), a Pennsylvania corporation; **MATRIX SERVICE SPECIALIZED TRANSPORT, INC. (formerly known as FRANK W. HAKE, INC.)**, a Pennsylvania corporation; **HOVER SYSTEMS, INC.**, a Pennsylvania corporation; **I & S, INC.**, a Pennsylvania corporation; **MCBISH MANAGEMENT, INC.,** a Pennsylvania corporation; **MECHANICAL CONSTRUCTION, INCORPORATED**, a Delaware corporation; **MID-ATLANTIC CONSTRUCTORS, INC.**, a Pennsylvania corporation; **TALBOT REALTY, INC.,** a Pennsylvania corporation; **BISH INVESTMENTS, INC.**, a Delaware corporation; **I & S JOINT VENTURE, L.L.C.,** a Pennsylvania limited liability company

By: /s/ George L. Austin

George L. Austin, Vice President

Lenders:

J. P. MORGAN CHASE BANK, N.A.

By: /s/ Hal E. Fudge

Hal E. Fudge, First Vice President

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Patrick McGovern

Patrick McGovern, Senior Vice President

UMB BANK, N.A.

By: /s/ Michael P. Nash

Michael P. Nash, Senior Vice President

WELLS FARGO BANK, NA
(formerly known as Wells Fargo Bank Texas, NA)

By: /s/ Roger Fruendt

Roger Fruendt, Senior Vice President

INTERNATIONAL BANK OF COMMERCE,
successor in interest to
LOCAL OKLAHOMA BANK,
an Oklahoma Banking Corporation
formerly known as LOCAL OKLAHOMA BANK, NA,

By: /s/ David Moore

David Moore, Senior Vice President

EXHIBIT 10.34

BECHTEL CORPORATION

SABINE PASS LNG PROJECT

ENGINEER, PROCURE AND CONSTRUCT (EPC) SUBCONTRACT

Subcontractor:	DIAMOND LNG LLC	Subcontract Number:	25027-HC1-MTD0-00002
Address:	1221 McKinney One Houston Center, Suite 3330 Houston, Texas 77010	Address:	3000 Post Oak Blvd Houston, Texas 77056 V
Contact:	Mr. Sam Saita Vice President	Contact:	Mr. Fred Sieling Subcontract Manager
Telephone:	713/652-9250	Telephone:	713/235-3234
Facsimile:	713/652-9346	Facsimile:	713/235-1610
		G&S Code	MTD0
and:	MATRIX SERVICE INC.		
Address:	10701 E. Ute Street Tulsa, OK 74116-1517		
Contact:	Mr. John Newmeister Vice President		
Telephone:	918/838-8822		
Facsimile:	918/838-0782		

This “Subcontract” is dated as of the Sixth (6th) day of May, 2005, between Bechtel Corporation, (CONTRACTOR), and Diamond LNG LLC and Matrix Service, Inc. (SUBCONTRACTOR) who hereby agree that all Work specified below, which is a portion of the goods and services to be provided by CONTRACTOR for CHENIERE (OWNER), shall be perfored by the SUBCONTRACTOR in accordance with all the provisions of this Subcontract, consisting of the following Subcontract Documents:

Subcontract Form of Agreement, 06 May 2005
Exhibit “A” General Conditions, 06 May 2005
Exhibit “B” Special Conditions, 06 May 2005
Exhibit “C” Quantities, Pricing and Data, 06 May 2005
Exhibit “D” Scope of Work, Rev. 001, 27 April 2005
Exhibit “E” Technical Specifications and Drawings, Rev. 001, 12 April 2005

1. WORK TO BE PERFORMED: Except as specified elsewhere in the Subcontract, SUBCONTRACTOR shall furnish all plant; labor; materials; tools; supplies; equipment; transportation; supervision; technical, professional and other services; and shall perform all operations necessary and required to satisfactorily:

   Engineer, Procure and Construct Three (3) LNG Tanks

2. SCHEDULE: The Work shall be performed in accordance with the dates set forth in the Exhibit "B" clause titled COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.

3. COMPENSATION: As full consideration for the satisfactory performance by SUBCONTRACTOR of this Subcontract, CONTRACTOR shall pay to SUBCONTRACTOR compensation in accordance with the prices set forth in Exhibit "C" and the payment provisions of this Subcontract.

4. JOINT AND SEVERAL OBLIGATIONS: In signing this Subcontract Diamond LNG LLC and Matrix Service, Inc. agree that they shall be jointly and severally obligated to CONTRACTOR to fulfill all the SUBCONTRACTOR's obligations and responsibilities set forth herein on a joint and several basis.

5. LIABILITY FOR WORK PERFORED DURING LIMITED NOTICE TO PROCEED-(LNTP) – Any part of the Work carried out by the Subcontractor (or their Affiliates) pursuant to the LNTP issued on 3 February 2005, shall with effect from the Effective Date be treated as though such part had been carried out under the Subcontract and all terms and conditions set out in the Subcontract shall apply in respect to any such part of the Works and any payments made under the LNTP shall be deemed to have been made under this Subcontract as part of the Subcontract price.

This Subcontract embodies the entire agreement between CONTRACTOR and SUBCONTRACTOR and supersedes all other writings. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding not set forth herein.

CONTRACTOR:		SUBCONTRACTOR:	
Bechtel Corporation		Diamond LNG, LLC	
Authorized Signature:	/s/ J. J. Sheehan	Authorized Signature:	/s/ Sam Saita
Print Name:	J. J. Sheehan	Print Name:	Sam Saita
Print Title:	Sup OG&C (Ops)	Print Title:	Vice President

Matrix Service Inc.	
Authorized Signature:	/s/ Brad Rinehart
Print Name:	Brad Rinehart
Print Title:	VP-MWBU

BECHTEL CORPORATION

SABINE PASS LNG TERMINAL PROJECT

EXHIBIT "A"

ENGINEER, PROCURE AND CONSTRUCT (EPC) SUBCONTRACT

GENERAL CONDITIONS

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EXHIBIT "A"

EPC SUBCONTRACT GENERAL CONDITIONS

GC-1 INDEPENDENT CONTRACTOR

SUBCONTRACTOR represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Work under this Subcontract. SUBCONTRACTOR shall act as an independent contractor and not as the agent of CONTRACTOR or OWNER in performing this Subcontract, maintaining complete control over its employees and all of its associates, suppliers and sub-tier subcontractors. Nothing contained in this Subcontract or any lower-tier purchase order or subcontract awarded by SUBCONTRACTOR shall create any contractual relationship between associate, supplier or subcontractor of any tier and either CONTRACTOR or OWNER. SUBCONTRACTOR shall perform the Work using generally accepted professional design and engineering practices and perform all design, engineering, construction and related services in accordance with its own methods subject to compliance with the Subcontract.

GC-2 AUTHORIZED REPRESENTATIVES

Before starting work, SUBCONTRACTOR shall designate in writing an authorized representative acceptable to CONTRACTOR to represent and act for SUBCONTRACTOR and shall specify any and all limitations of such representative's authority. Such representative shall be present or be represented at the Jobsite at all times when work is in progress and shall be empowered to receive communications in accordance with this Subcontract on behalf of SUBCONTRACTOR. During periods when the Work is suspended, arrangements shall be made for an authorized representative acceptable to CONTRACTOR for any emergency work that may be required. All communications given to the authorized representative by CONTRACTOR in accordance with this Subcontract shall be binding upon SUBCONTRACTOR. CONTRACTOR shall designate in writing one or more representatives to represent and act for CONTRACTOR and to receive communications from SUBCONTRACTOR. Notification of changes of authorized representatives for either CONTRACTOR or SUBCONTRACTOR shall be provided in advance, in writing, to the other party.

GC-3 NOTICES

Any notices required hereunder shall be in writing and may be served either personally on the authorized representative of the receiving party at the Jobsite, by facsimile, by courier or express delivery, or by certified mail to the facsimile number or address of that party as shown on the face of the Subcontract Form of Agreement or at such facsimile number or address as may have been directed by written notice.

GC-4 SUBCONTRACT IMPLEMENTATION AND INTERPRETATION

SUBCONTRACTOR shall follow and utilize CONTRACTOR's "Implementation Documents" such as, but not limited to, Project procedures, plans, regulations, rules, report formats and forms established to implement the requirements of and transmit information required under this Subcontract, including any revisions thereto. This shall include CONTRACTOR approved SUBCONTRACTOR submitted plans, means and methods for the Work. Implementation Documents are not intended to nor shall supersede the requirements of the Subcontract Documents.

All questions concerning interpretation or clarification of this Subcontract, Implementation Documents or applicable standards and codes, including the discovery of conflicts, discrepancies, errors or omissions, or the acceptable performance thereof by SUBCONTRACTOR, shall be immediately submitted in writing to CONTRACTOR for resolution. Subject to the provisions of the General Condition titled CHANGES, all

determinations, instructions, and clarifications of CONTRACTOR shall be final and conclusive unless determined to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. At all times SUBCONTRACTOR shall proceed with the Work in accordance with the determinations, instructions, and clarifications of CONTRACTOR. SUBCONTRACTOR shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so.

GC-5 ORDER OF PRECEDENCE

All Subcontract Documents and subsequently issued Change Notices/Orders and Amendments are essential parts of this Subcontract and a requirement occurring in one is binding as though occurring in all. In resolving conflicts, discrepancies, or errors the following order of precedence shall be used:

(1) Subcontract Form of Agreement

(2) Exhibit “C” - Quantities and Pricing

(3) Exhibit “B” - Special Conditions

(4) Exhibit “A” - General Conditions

(5) Exhibit “D” - Scope of Work

(6) Exhibit “D” Technical Specifications and Exhibit “E” – Drawings

GC-6 STANDARDS AND CODES

6.1 Wherever references are made in this Subcontract to standards or codes in accordance with which the Work under this Subcontract is to be performed, the edition or revision of the standards or codes current on the effective date of this Subcontract shall apply unless otherwise expressly stated. In case of conflict between any referenced standards and codes and any Subcontract Documents, the General Condition titled SUBCONTRACT IMPLEMENTATION AND INTERPRETATION shall apply.

6.2 SUBCONTRACTOR shall, in preparation of its detail design, select the more stringent of applicable local, national and international standards or codes of practice, when not otherwise specified in the Subcontract Documents or writing by CONTRACTOR.

GC-7 LAWS AND REGULATIONS

7.1 All applicable laws, ordinances, statutes, rules, regulations, orders or decrees in effect at the time the Work under this Subcontract is performed shall apply to SUBCONTRACTOR and its employees and representatives.

7.2 If SUBCONTRACTOR discovers any discrepancy or inconsistency between this Subcontract and any law, ordinance, statute, rule, regulation, order or decree, SUBCONTRACTOR shall immediately notify CONTRACTOR in writing.

7.3 If during the term of this Subcontract there are changed or new laws, ordinances, statutes, rules, regulations, orders or decrees (but excluding changes to tax laws where such taxes are based upon SUBCONTRACTOR’s inventory, income, profits/losses or cost of finance) not known or foreseeable at the time of signing this Subcontract which become effective and which affect the cost or time of performance of this Subcontract, SUBCONTRACTOR shall immediately notify

CONTRACTOR and submit detailed documentation of such effect in terms of both time and cost of performing the Subcontract. If the Work is affected by such changes and CONTRACTOR concurs with their effect, an equitable adjustment will be made pursuant to the General Condition titled CHANGES.

GC-8 PERMITS

OWNER and CONTRACTOR shall provide the permits as set forth and limited to those permits identified in the Special Condition titled CONTRACTOR FURNISHED PERMITS.

Except as otherwise specified therein, SUBCONTRACTOR shall procure and pay for all permits, licenses, certifications and other applicable governing authority requirements and inspections, other than inspections performed by CONTRACTOR or OWNER, with a maximum cost of $2,000 for such permits, and shall furnish any documentation, bonds, security or deposits required to permit performance of the Work.

SUBCONTRACTOR shall be responsible for obtaining SUBCONTRACTOR Permits. SUBCONTRACTOR shall provide CONTRACTOR with copies of such SUBCONTRACTOR Permits as soon as reasonably practicable after they are obtained. SUBCONTRACTOR shall provide information, assistance and documentation to CONTRACTOR or OWNER as reasonably requested in connection with the CONTRACTOR and OWNER Permits; provided that such information, assistance and documentation shall not include SUBCONTRACTOR's provision of information, testimony, documents or data by SUBCONTRACTOR employees under oath (unless specifically authorized by SUBCONTRACTOR) and activities outside the field of SUBCONTRACTOR's expertise, training or experience of personnel assigned to the performance of the Work under this Subcontract (except to the extent provided for by Change Order issued pursuant to the General Condition titled CHANGES).

GC-9 TAXES

Except as specified in SC-43, Subcontract price includes all taxes and SUBCONTRACTOR shall pay all taxes, levies, duties and assessments of every nature due in connection with the Work under this Subcontract and shall make any and all payroll deductions and withholdings required by law, and hereby indemnifies and holds harmless CONTRACTOR and OWNER from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

GC-10 LABOR, PERSONNEL AND WORK RULES

10.1 Design Activities

(1) CONTRACTOR'S written approval of all SUBCONTRACTOR personnel assigned to perform the Work shall be a condition precedent to payment of their costs. SUBCONTRACTOR shall submit resumes for each individual setting forth educational and professional qualifications, experience, tasks to be performed, position, and compensation. SUBCONTRACTOR shall verify all academic degrees and professional credentials and certifies the accuracy of any SUBCONTRACTOR submitted qualifications.

(2) CONTRACTOR shall review and approve or reject assignments for cause within ten (10) Days. Approval of assignments shall not relieve SUBCONTRACTOR of the full responsibilities of employer and shall create no direct relationship between the individual and CONTRACTOR or OWNER.

(3) SUBCONTRACTOR shall assign only competent and qualified personnel and shall at all times be solely responsible for their work quality. CONTRACTOR may request the removal of individual employees for cause at any time and SUBCONTRACTOR agrees to comply and to promptly provide acceptable replacement personnel.

10.2 Procurement and Construction Activities

(1) SUBCONTRACTOR shall employ only competent and skilled personnel to perform the Work and shall remove from the Jobsite any SUBCONTRACTOR personnel determined to be unfit or to be acting in violation of any provision of this Subcontract. SUBCONTRACTOR is responsible for maintaining labor relations in such manner that there is harmony among workers and shall comply with and enforce Project and Jobsite procedures, regulations, work rules and work hours established by CONTRACTOR and OWNER.

(2) CONTRACTOR may at its sole discretion deny access to the Jobsite to any individual by written notice to SUBCONTRACTOR. In the event an employee is excluded from the Jobsite, SUBCONTRACTOR shall promptly replace such individual with another who is fully competent and skilled to perform the Work.

(3) SUBCONTRACTOR is responsible for maintaining labor relations in such manner that, so far as reasonably practicable, there is harmony among workers. SUBCONTRACTOR and its Subsubcontractors and their subcontractors of any tier shall conduct their labor relations in accordance with the recognized prevailing local area practices. SUBCONTRACTOR shall inform CONTRACTOR promptly of any labor dispute, anticipated labor dispute, request or demand by a labor organization, its representatives or members which may reasonably be expected to affect the Work. SUBCONTRACTOR shall not be bound by any organized labor agreements or project specific labor agreements. SUBCONTRACTOR further agrees to inform CONTRACTOR, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations.

(4) Notwithstanding the foregoing, neither CONTRACTOR nor OWNER shall have any liability and SUBCONTRACTOR agrees to release, indemnify, defend and hold harmless the CONTRACTOR Group and OWNER Group from and against any and all claims, causes of action, damages, losses, cost and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) and liabilities, of whatsoever kind or nature, which may directly or indirectly arise or result from SUBCONTRACTOR or any Subsubcontractor choosing to terminate the employment of any such employee (including any key person) or remove such employee from the project who fails to meet the foregoing requirements following a request by CONTRACTOR to have such employee removed from the work. Any such employee shall be replaced at the cost and expense of SUBCONTRACTOR or the relevant Subsubcontractor.

GC-11 COMMERCIAL ACTIVITIES

Neither SUBCONTRACTOR nor its employees shall establish any commercial activity or issue concessions or permits of any kind to third parties for establishing commercial activities on the Jobsite or any other lands owned or controlled by CONTRACTOR or OWNER.

GC-12 PUBLICITY AND ADVERTISING

Neither SUBCONTRACTOR nor its Subsubcontractors shall make any announcement, take any photographs of any part of the facility for publicity or advertising purposes, issue a press release, advertisement, publicity material, financial document or similar matter or participate in a media interview that mentions or refers to the Work or any part of the Facility or release any information concerning this Subcontract, or the Project, or any part thereof to any member of the public, press, business entity, or any official body unless prior written consent is obtained from CONTRACTOR and OWNER, which shall not be unreasonably withheld.

GC-13 SAFETY AND HEALTH

13.1 SUBCONTRACTOR shall be solely responsible for conducting operations under this Subcontract to avoid risk of harm to the health and safety of persons and property and for inspecting and monitoring all its equipment, materials and work practices to ensure compliance with its obligations under this Subcontract.

13.2 SUBCONTRACTOR shall be solely responsible for developing and implementing a Safety and Health Plan (S&H Plan) pursuant to the terms of this Subcontract. SUBCONTRACTOR's S&H Plan shall as a minimum conform and comply with:

(1) All applicable laws, ordinances, statutes, rules, regulations, and codes governing safety and health in the workplace;

(2) SUBCONTRACTOR's specific Scope of Work under this Subcontract; and

(3) CONTRACTOR's safety and health standards as set forth in the Special Condition titled SAFETY, HEALTH AND SECURITY REQUIREMENTS, as well as CONTRACTOR's and OWNER's S&H Plan, including revisions thereto. If SUBCONTRACTOR considers any such revision to be a change affecting cost or schedule, the provisions of the General Condition titled CHANGES shall apply.

13.3 Within thirty (30) Days after Subcontract award and in any event prior to commencing work at the Jobsite, SUBCONTRACTOR shall submit its S&H Plan to CONTRACTOR for review and approval.

13.4 To the extent allowed by law, SUBCONTRACTOR shall assume all responsibility and liability with respect to all matters regarding the safety and health of its employees and the employees of SUBCONTRACTOR's suppliers and subcontractors of any tier, with respect to the risks under this Subcontract.

13.5 SUBCONTRACTOR's failure to correct any unsafe condition or unsafe act by its employees, suppliers or subcontractors of any tier may, at the sole discretion of CONTRACTOR, be grounds for an order by CONTRACTOR to stop the affected work or operations until the unsafe act or condition is corrected to CONTRACTOR's satisfaction at SUBCONTRACTOR's expense.

13.6 If the unsafe act or condition continues despite notice and reasonable opportunity to affect a resolution, CONTRACTOR may, at its sole discretion, correct the unsafe act or condition at SUBCONTRACTOR's expense pursuant to the General Condition titled BACKCHARGES or terminate this Subcontract pursuant to the General Condition titled TERMINATION FOR DEFAULT.

13.7 SUBCONTRACTOR shall assign to the Jobsite one (or more as necessary for compliance with the terms of this clause) safety representative(s) acceptable to CONTRACTOR. Such safety

representative(s) shall be physically located at the Jobsite, shall have authority for correcting unsafe acts or conditions by SUBCONTRACTOR, its employees, and employees of SUBCONTRACTOR's suppliers or subcontractors of any tier, and shall participate in periodic safety meetings with CONTRACTOR. SUBCONTRACTOR shall instruct its personnel on the requirements of SUBCONTRACTOR's S&H Plan and coordinate with other Jobsite contractors and subcontractors on safety matters required for the Work.

13.8 Unless otherwise specified by CONTRACTOR, SUBCONTRACTOR shall furnish all safety equipment required for the Work, require the use of such safety equipment, and provide safety instructions to its employees. All safety equipment must be manufactured to a standard acceptable to CONTRACTOR as set forth in the Special Condition titled SAFETY, HEALTH AND SECURITY REQUIREMENTS.

13.9 SUBCONTRACTOR shall maintain accident and injury records as required by applicable laws and regulations. Such records will be made available to CONTRACTOR upon request. SUBCONTRACTOR shall furnish CONTRACTOR with a weekly and monthly summary of accidents, injuries, and labor hours lost to work related injuries of its employees and employees of SUBCONTRACTOR's suppliers and subcontractors of any tier, in a form and format designated by CONTRACTOR.

13.10 SUBCONTRACTOR shall immediately report to CONTRACTOR any death, injury or damage to property incurred or caused by SUBCONTRACTOR's employees and employees of SUBCONTRACTOR's suppliers and subcontractors of any tier.

GC-14 ENVIRONMENTAL REQUIREMENTS

14.1 Throughout performance of the Work, SUBCONTRACTOR shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any spread or release of contaminated or hazardous substances.

14.2 SUBCONTRACTOR shall:

(1) Comply with all applicable laws, regulations, ordinances, statutes, rules, and codes governing environmental requirements and conduct the Work based on the requirements of this Subcontract, including compliance with permit requirements and Project plans and approvals.

(2) Provide all documentation required by all levels of governing authority or CONTRACTOR concerning environmental requirements.

(3) Provide and maintain effective planning and field control measures for the following activities:

Wastewater discharges to land, surface water, or groundwater,
Extraction/supply of water,
Storm water management,
Spill prevention and response,
Erosion and sedimentation control,
Air emissions and dust control,
Noise control,
Waste and hazardous waste management, and
Work area restoration, including revegetation.

This shall include obtaining certifications; conducting requisite analyses and monitoring of such activities as required by the Subcontract Documents, permit conditions or other applicable law; utilizing appropriate equipment; and proceeding in accordance with permit requirements.

(4) Be responsible for developing and maintaining a written Environmental Compliance Plan in accordance with SUBCONTRACTOR's established practices, including but not limited to compliance with all applicable laws/regulations and the requirements of the Project Construction Environmental Control Plan (CECP). SUBCONTRACTOR shall have sole responsibility for implementing and enforcing its Environmental Compliance Plan.

(5) Submit its written Environmental Compliance Plan to CONTRACTOR for review thirty (30) Days after subcontract award and in any event prior to commencing work at the Jobsite. CONTRACTOR's review of SUBCONTRACTOR's plan shall not relieve SUBCONTRACTOR of its obligation under this Subcontract or as imposed by law and SUBCONTRACTOR shall be solely responsible for the adequacy of its Environmental Compliance Plan.

(6) Comply with all access restrictions, including prohibitions on access to certain areas on or adjacent to the Jobsite and require its personnel and those of its suppliers and subcontractors of any tier comply with all signage and flagging related to such restricted areas. Restricted areas may include, but are not limited to: designated wetlands; environmental mitigation study areas; cultural/historical/archaeological sites; and designated fish, wildlife, or vegetative habitat.

(7) Require that its personnel do not hunt, fish, feed, capture, extract, or otherwise disturb aquatic, animal, or vegetative species within the Project boundary or while performing any tasks in performance of the Work.

(8) Not proceed with any renovation or demolition work until asbestos surveys and notifications have been completed to the appropriate regulatory agencies, in accordance with the division of responsibility outlined in the Project's CECP and CONTRACTOR specifically authorizes that work to proceed. Should asbestos containing materials be uncovered during SUBCONTRACTOR's Work, the provisions of subclause (9) below shall apply.

(9) Immediately stop work in any area where contaminated soil indicators (such as odor or appearance), unknown containers, piping, underground storage tanks, or similar structures are discovered; or any other materials, which are reasonably suspected to be toxic or hazardous. SUBCONTRACTOR shall then immediately notify CONTRACTOR and the stop work area shall be determined by CONTRACTOR and confirmed in writing. Activity in the stop work area shall only resume upon CONTRACTOR's written approval.

(10) Immediately stop work in any area where cultural resources or artifacts with archaeological or historical value are discovered, and immediately notify CONTRACTOR. The stopped work shall proceed in the manner set forth in subclause (9) above. No artifacts, items, or materials shall be disturbed or taken from the area of discovery. Neither SUBCONTRACTOR nor any of its suppliers and subcontractors of any tier shall have property rights to such artifacts, items, or materials, which shall be secured and guarded until turned over to CONTRACTOR or the appropriate authorities. SUBCONTRACTOR shall also require that its personnel and those of its suppliers and subcontractors of any tier comply with this provision and respect all historic and archaeological sites in the area.

(11) Manage, store, and dispose of all hazardous waste generated by SUBCONTRACTOR during its Work in accordance with national, regional, and local requirements (for U.S. projects this includes Resource and Conservation Recovery Act (RCRA) regulations and state special and hazardous waste programs) and as outlined in the Project CECP. This includes, but is not limited to: waste minimization; hazardous waste generator registration; hazardous materials inventory with Material Safety Data Sheets (MSDS) for each hazardous material on site; employee training; hazardous waste spill management and reporting; proper storage of hazardous waste; equipment decontamination; onsite and offsite transport of hazardous waste; and selection and use of offsite final disposal facilities.

14.3 SUBCONTRACTOR shall deliver to CONTRACTOR (i) notice of any pending or threatened material environmental claim with respect to the project, and (ii) promptly upon their becoming available, copies of written communications with any Governmental Instrumentality relating to any such material environmental claim.

14.4 SUBCONTRACTOR's obligations under the General Condition titled INDEMNITY apply to any liability arising in connection with or incidental to SUBCONTRACTOR's performance or failure to perform as provided in this clause.

GC-15 SITE CONDITIONS AND NATURAL RESOURCES

SUBCONTRACTOR shall have the sole responsibility for satisfying itself concerning the nature and location of the Work and the general and local conditions, including but not limited to the following:

(1) Transportation, access, disposal, handling and storage of materials;

(2) Availability and quality of labor, water, electric power and road conditions;

(3) Climatic conditions, tides, and seasons;

(4) River hydrology and river stages;

(5) Physical conditions at the Jobsite and the Project area as a whole;

(6) Topography and ground surface conditions; and

(7) Equipment and facilities needed preliminary to and during the performance of the Work.

The failure of SUBCONTRACTOR to acquaint itself with any applicable conditions will not relieve SUBCONTRACTOR of the responsibility for properly estimating the difficulties, time or cost of successfully performing SUBCONTRACTOR's obligations under this Subcontract.

GC-16 DIFFERING SITE CONDITIONS

16.1 If SUBCONTRACTOR encounters subsurface soil conditions that (i) are materially different from the information regarding such subsurface soil conditions as provided in the Geotechnical Investigation (dated August, 2003) by Tolunay Wong (including the encountering of subsurface soil conditions that could not reasonably be anticipated by SUBCONTRACTOR using GECP based on the information provided in the above Geotechnical Investigation) and (ii) adversely affects (a) SUBCONTRACTOR's costs of performance of the Work, or (b) SUBCONTRACTOR's ability to perform any material obligation under this Subcontract, SUBCONTRACTOR shall be entitled to a Change Order.

16.2 Subsequently, SUBCONTRACTOR shall immediately notify CONTRACTOR in writing before proceeding with any work, which SUBCONTRACTOR believes, constitutes a differing site condition with respect to:

(1) Subsurface or latent physical conditions at the Jobsite differing materially from those indicated in the above referenced Geotechnical Investigation; or

(2) Previously unknown physical conditions at the Jobsite, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Subcontract.

16.3 CONTRACTOR will then investigate such condition and make a written determination. If CONTRACTOR determines that such condition does constitute a differing site condition, SUBCONTRACTOR may then, pursuant to the General Condition titled CHANGES, submit a written proposal for an equitable adjustment setting forth the impact of such differing site condition. Failure of SUBCONTRACTOR to give the required immediate notice of the differing site condition shall be grounds for rejection of the claim to the extent CONTRACTOR or OWNER is prejudiced by such delay.

GC-17 TITLE TO MATERIALS FOUND

The title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of SUBCONTRACTOR or any of its lower-tier subcontractors and the right to use said materials or dispose of same is hereby expressly reserved by OWNER. SUBCONTRACTOR may, at the sole discretion of OWNER, be permitted, without charge, to use in the Work any such materials, which meet the requirements of this Subcontract.

GC-18 SURVEY CONTROL POINTS AND LAYOUTS

18.1 CONTRACTOR will establish Survey control points as shown on the drawings.

18.2 SUBCONTRACTOR shall complete the layout of all work and shall be responsible for execution of the Work in accordance with the locations, lines, and grades specified or shown on the drawings, subject to such modifications as CONTRACTOR may require as work progresses.

18.3 If SUBCONTRACTOR or any of its lower-tier subcontractors or any of their representatives or employees move or destroy or render inaccurate any survey control point, such control point shall be replaced by CONTRACTOR at SUBCONTRACTOR’s expense. No separate payment will be made for survey work performed by SUBCONTRACTOR.

GC-19 SUBCONTRACTOR’S WORK AREA

CONTRACTOR will assign All SUBCONTRACTOR work areas on the Jobsite. SUBCONTRACTOR shall confine its operations to the areas so assigned. Should SUBCONTRACTOR find it necessary or advantageous to use any additional off-site area for any purpose whatsoever, SUBCONTRACTOR shall, at its expense, provide and make its own arrangements for the use of such additional off-site areas.

GC-20 CLEANING UP

20.1 SUBCONTRACTOR shall, at all times, keep its work areas in a neat, clean and safe condition. Upon completion of any portion of the Work, SUBCONTRACTOR shall promptly remove from the work area all its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of the Work.

20.2 Upon completion of the Work and prior to final payment, SUBCONTRACTOR shall at its expense satisfactorily dispose of all rubbish, remove all plant, buildings, equipment and materials belonging to SUBCONTRACTOR and return to CONTRACTOR's warehouse or Jobsite storage area all salvageable CONTRACTOR or OWNER supplied materials. SUBCONTRACTOR shall leave the premises in a neat, clean and safe condition.

20.3 In event of SUBCONTRACTOR's failure to comply with the foregoing requirements, CONTRACTOR may accomplish them at SUBCONTRACTOR's expense.

GC-21 COOPERATION WITH OTHERS

CONTRACTOR, OWNER, other contractors and other subcontractors may be working at the Jobsite during the performance of this Subcontract and SUBCONTRACTOR's Work or use of certain facilities may be interfered with as a result of such concurrent activities. CONTRACTOR reserves the right to require SUBCONTRACTOR to schedule the order of performance of the Work in such a manner as will minimize interference with work of any of the parties involved.

GC-22 RESPONSIBILITY FOR WORK, SECURITY AND PROPERTY

22.1 Work in Progress, Equipment and Material

SUBCONTRACTOR shall be responsible for and shall bear any and all risk of loss or damage to work in progress and, pursuant to the General Condition titled TITLE AND RISK OF LOSS, to equipment and materials.

22.2 Delivery, Unloading and Storage

SUBCONTRACTOR's responsibility for materials and plant equipment required for the performance of this Subcontract shall include:

(1) Procurement, importation and transportation to and from the Jobsite unless otherwise specified;

(2) Receiving and unloading;

(3) Storing in a secure place and in a manner subject to CONTRACTOR's review. Outside storage of materials and equipment subject to degradation by the elements shall be in weathertight enclosures provided by SUBCONTRACTOR;

(4) Delivering from storage to construction site all materials and plant equipment as required; and

(5) Maintaining complete and accurate records for CONTRACTOR's inspection of all materials and plant equipment received, stored and issued for use in the performance of the Subcontract.

22.3 Security

(1) SUBCONTRACTOR shall at all times conduct all operations under this Subcontract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or any other means to any equipment, materials, work or other property at the Jobsite. SUBCONTRACTOR shall continuously inspect all equipment, materials and work to discover and determine any conditions, which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions.

(2) SUBCONTRACTOR shall comply with CONTRACTOR's and OWNER's security requirements for the Jobsite. SUBCONTRACTOR shall cooperate with CONTRACTOR and OWNER on all security matters and shall promptly comply with any Project security arrangements established by CONTRACTOR or OWNER. Such compliance with these security requirements shall not relieve SUBCONTRACTOR of its responsibility for maintaining proper security for the above noted items, nor shall it be construed as limiting in any manner SUBCONTRACTOR's obligation with respect to all applicable laws and regulations and to undertake reasonable action to establish and maintain secure conditions at the Jobsite.

22.4 Property

SUBCONTRACTOR shall plan and conduct its operations so as not to:

(1) Enter upon lands in their natural state unless authorized by CONTRACTOR;

(2) Damage, close or obstruct any utility installation, highway, road or other property until permits and CONTRACTOR's permission therefore have been obtained;

(3) Disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch or structure unless otherwise specifically authorized by this Subcontract; or

(4) Damage or destroy cultivated and planted areas, and vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises which, as determined by CONTRACTOR, do not interfere with the performance of this Subcontract. This includes damage arising from performance of work through operation of equipment or stockpiling of materials.

22.5 SUBCONTRACTOR shall not be entitled to any extension of time or compensation on account of SUBCONTRACTOR's failure to protect all facilities, equipment, materials and other property as described herein. All costs in connection with any repairs or restoration necessary or required by reason of unauthorized obstruction, damage or use shall be borne by SUBCONTRACTOR, except to the extent such costs arise out of the acts or omissions of the OWNER, CONTRACTOR, other Jobsite contractors and their personnel.

GC-23 SUBCONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES

23.1 SUBCONTRACTOR shall provide and use for the Work only such construction plant and equipment as are capable of producing the quality and quantity of work and materials required by this Subcontract and within the time or times specified in the Subcontract Schedule.

23.2 Before proceeding with the Work, SUBCONTRACTOR shall furnish CONTRACTOR with information and drawings relative to such equipment, plant and facilities as CONTRACTOR may request. Upon written order of CONTRACTOR, SUBCONTRACTOR shall discontinue operation of unsatisfactory plant, equipment or facilities and shall either modify the unsatisfactory items or remove such items from the Jobsite.

23.3 SUBCONTRACTOR shall, at the time any equipment is moved onto the Jobsite, present to CONTRACTOR an itemized list of all equipment and tools, including but not limited to power tools, welding machines, pumps and compressors. Said list must include description and quantity, and serial number where applicable. It is recommended that SUBCONTRACTOR identify its equipment by color, decal and etching. Prior to removal of any or all equipment, SUBCONTRACTOR shall clear such removal through CONTRACTOR. SUBCONTRACTOR shall not remove construction plant, equipment or tools from the Jobsite before the Work is finally accepted, without CONTRACTOR's written approval.

GC-24 ILLUMINATION

When any work is performed at night or where daylight is obscured, SUBCONTRACTOR shall, at its expense, provide artificial light sufficient to permit work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in a safe manner and meet all applicable codes and standards.

GC-25 USE OF COMPLETED PORTIONS OF WORK

25.1 Whenever, as determined by CONTRACTOR, any portion of the Work performed by SUBCONTRACTOR is suitable for use, CONTRACTOR or OWNER may, upon written notice, occupy and use such portion. Use shall not constitute acceptance, relieve SUBCONTRACTOR of its responsibilities, or act as a waiver by CONTRACTOR or OWNER of any terms of this Subcontract.

25.2 SUBCONTRACTOR shall not be liable for normal wear and tear or for repair of damage caused by any misuse during such occupancy or use by CONTRACTOR or OWNER. If such use increases the cost or time of performance of remaining portions of the Work, SUBCONTRACTOR shall, pursuant to the General Condition titled CHANGES, be entitled to an equitable adjustment in its compensation or schedule under this Subcontract.

25.3 If, as a result of SUBCONTRACTOR's failure to comply with the provisions of this Subcontract, such use proves to be unsatisfactory to CONTRACTOR or OWNER, CONTRACTOR or OWNER shall have the right to continue such use until such portion of the Work can, without injury to CONTRACTOR or OWNER, be taken out of service for correction of defects, errors, omissions or replacement of unsatisfactory materials or equipment as necessary for such portion of the Work to comply with the Subcontract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed twelve (12) months unless otherwise mutually agreed in writing between the parties.

25.4 SUBCONTRACTOR shall not use any permanently installed equipment unless CONTRACTOR approves such use in writing. When such use is approved, SUBCONTRACTOR shall at SUBCONTRACTOR's expense properly use and maintain and, upon completion of such use, recondition such equipment as required to meet specifications.

25.5 If CONTRACTOR or OWNER furnishes an operator for such permanently installed equipment, all services performed shall be under the complete direction and control of SUBCONTRACTOR, and such operator shall be considered SUBCONTRACTOR's employee for all purposes other than payment of such operator's wages, Workers' Compensation Insurance or other benefits.

GC-26 USE OF CONTRACTOR'S CONSTRUCTION EQUIPMENT OR FACILITIES

26.1 Where SUBCONTRACTOR requests CONTRACTOR and CONTRACTOR agrees to make available to SUBCONTRACTOR certain equipment or facilities belonging to CONTRACTOR for the performance of SUBCONTRACTOR work under the Subcontract, the following shall apply:

(1) Equipment or facilities will be charged to SUBCONTRACTOR at agreed rental rates;

(2) CONTRACTOR will furnish a copy of the equipment maintenance and inspection record and SUBCONTRACTOR shall maintain these records during the rental period;

(3) SUBCONTRACTOR shall assure itself of the condition of such equipment and assume all risks and responsibilities during its use;

(4) SUBCONTRACTOR shall, as part of its obligation under the General Condition titled INDEMNITY, release, defend, indemnify and hold harmless CONTRACTOR and OWNER from all claims, demands and liabilities arising from the use of such equipment.

(5) CONTRACTOR and SUBCONTRACTOR shall jointly inspect such equipment before its use and upon its return. The cost of all necessary repairs or replacement for damage other than normal wear shall be at SUBCONTRACTOR's expense; and

(6) If such equipment is furnished with an operator, the services of such operator will be performed under the complete direction and control of SUBCONTRACTOR and such operator shall be considered SUBCONTRACTOR's employee for all purposes other than the payment of wages, Workers' Compensation Insurance or other benefits.

GC-27 FIRST AID FACILITIES

27.1 Where CONTRACTOR or OWNER have first-aid facilities at the Jobsite they may, at their option, make available their first-aid facilities for the treatment of employees of SUBCONTRACTOR who may be injured or become ill while engaged in the performance of the Work under this Subcontract.

27.2 If first-aid facilities and/or services are made available to SUBCONTRACTOR's employees then, in consideration for the use of such facilities and the receipt of such services, SUBCONTRACTOR hereby agrees:

(1) To include as part of its obligation under the General Condition titled INDEMNITY the obligation to release, defend, indemnify and hold harmless CONTRACTOR and OWNER from all claims, demands and liabilities arising from the use of such services or facilities; and

(2) In the event any of SUBCONTRACTOR's employees require off-site medical services, including transportation thereto, to promptly pay for such services directly to the providers thereof.

GC-28 INSPECTION, QUALITY SURVEILLANCE, REJECTION OF MATERIALS AND WORKMANSHIP

28.1 All material and equipment furnished and work performed shall be properly inspected by SUBCONTRACTOR at its expense, and shall at all times be subject to quality surveillance and quality audit by CONTRACTOR, OWNER, or their authorized representatives who, upon

reasonable notice, shall be afforded full and free access to the shops, factories or other places of business of SUBCONTRACTOR and its suppliers and subcontractors of any tier for such quality surveillance or audit. SUBCONTRACTOR shall provide safe and adequate facilities, drawings, documents and samples as requested, and shall provide assistance and cooperation including stoppage of work to perform such examination as may be necessary to determine compliance with the requirements of this Subcontract. Any work covered prior to any quality surveillance or test by CONTRACTOR or OWNER shall be uncovered and replaced at the expense of SUBCONTRACTOR if such covering interferes with or obstructs such inspection or test. Failure of CONTRACTOR or OWNER to make such quality surveillance or to discover defective design, equipment, materials or workmanship shall not relieve SUBCONTRACTOR of its obligations under this Subcontract nor prejudice the rights of CONTRACTOR or OWNER thereafter to reject or require the correction of defective work in accordance with the provisions of this Subcontract.

28.2 If any work is determined by CONTRACTOR or OWNER to be defective or not in conformance with this Subcontract the provisions of the General Condition titled WARRANTY / DEFECT CORRECTION PERIOD shall apply.

GC-29 TESTING

29.1 Unless otherwise provided in the Subcontract, testing of equipment, materials or work shall be performed by SUBCONTRACTOR at its expense and in accordance with subcontract requirements. Should CONTRACTOR direct tests in addition to those required by this Subcontract, SUBCONTRACTOR will be given reasonable notice to permit such testing. Such additional tests will be at CONTRACTOR’s expense.

29.2 SUBCONTRACTOR shall furnish samples as requested and shall provide reasonable assistance and cooperation necessary to permit tests to be performed on materials or work in place including reasonable stoppage of work during testing.

GC-30 EXPEDITING

The equipment and materials furnished and work performed under this Subcontract shall be subject to expediting by CONTRACTOR or its representatives who shall be afforded full and free access to the shops, factories and other places of business of SUBCONTRACTOR and its suppliers and subcontractors of any tier for expediting purposes. As required by CONTRACTOR, SUBCONTRACTOR shall provide detailed schedules and progress reports for use in expediting and shall cooperate with CONTRACTOR in expediting activities.

GC-31 FORCE MAJEURE

31.1 If SUBCONTRACTOR’s performance of this Subcontract is prevented or delayed by Force Majeure, any unforeseeable cause, existing or future, which is beyond the reasonable control of the parties and without the fault or negligence of SUBCONTRACTOR, SUBCONTRACTOR shall, within twenty-four hours of the commencement of any such delay, give to CONTRACTOR written notice thereof and within seven (7) Days of commencement of the delay, a written description of the anticipated impact of the delay on performance of the Work. Delays attributable to and within the control of SUBCONTRACTOR OR SUBCONTRACTOR’s suppliers or Subsubcontractors of any tier shall be deemed delays within the control of SUBCONTRACTOR. Within seven (7) Days after the termination of any Force Majeure event, SUBCONTRACTOR shall file a written notice with CONTRACTOR specifying the actual duration of the delay. Failure to give any of the above notices shall be sufficient ground for denial of an extension of time. CONTRACTOR will determine the duration of the delay and will extend the time of performance of this Subcontract by modifying the Special Condition titled COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK accordingly.

31.2 SUBCONTRACTOR shall demonstrate to CONTRACTOR its entitlement to such relief under this Article by providing to CONTRACTOR an updated CPM Schedule using Primavera Project Planner (P3) in its native electronic format with actual durations entered for all activities on the critical path and re-forecasted clearly to indicate SUBCONTRACTOR's entitlement to a time extension under this GC-31. Once provided, SUBCONTRACTOR shall be entitled to an extension to the Subcontract Completion Date for delay, if and to the extent such delay or prevention causes a delay in the critical path of the Work, provided that SUBCONTRACTOR has complied with the notice, Change Order and mitigation requirements.

31.3 Such extension of time to the Subcontract Completion date shall be the sole remedy for the occurrence of such delay for a continuous period of less than thirty (30) Days.

31.4 SUBCONTRACTOR may be entitled to an adjustment to the Subcontract price for any delay that meets the requirements of GC-31.1 and GC-31.2, if such delay occurs for a continuous period of at least thirty (30) Days. If SUBCONTRACTOR is entitled to such adjustment to the Subcontract price, the adjustment to the Subcontract price shall only include reimbursement for the standby time for SUBCONTRACTOR's employees and construction equipment and other standby costs which are incurred by SUBCONTRACTOR after the expiration of such thirty (30) Day period and which are caused by such excusable delay, up to a maximum aggregate of 40 Days of standyby time.

31.5 SUBCONTRACTOR shall not be entitled to any adjustment to the Subcontract Schedule or adjustment to the Subcontract price for any portion of a delay, to the extent SUBCONTRACTOR could have taken, but failed to take, reasonable actions to mitigate such delay.

GC-32 CHANGES

32.1 CONTRACTOR may, at any time, without notice to the sureties if any, by written "Change Notice" unilaterally make any change in the Work within the general scope of this Subcontract, including but not limited to changes:

(1) In the drawings, designs or specifications;

(2) In the method, manner, or sequence of SUBCONTRACTOR work;

(3) In CONTRACTOR or OWNER-furnished facilities, equipment, materials, services or site(s);

(4) Directing acceleration or deceleration in performance of the Work; and

(5) Modifying the Subcontract Schedule or the Subcontract Milestones.

32.2 In addition, in the event of an emergency, which CONTRACTOR determines endangers life or property, CONTRACTOR may use oral orders to SUBCONTRACTOR for any work required by reason of such emergency. SUBCONTRACTOR shall commence and complete such emergency work as directed by CONTRACTOR. A Change Notice will confirm such orders.

32.3 In the event of a change in any Applicable Code and Standard which does not constitute a Change in Law, SUBCONTRACTOR shall provide written notice to CONTRACTOR regarding such change. Upon receipt of such notice from SUBCONTRACTOR and in the event CONTRACTOR, at its sole option, elects for SUBCONTRACTOR to implement such change in Applicable Code and Standard, CONTRACTOR may issue a Change Notice to SUBCONTRACTOR in accordance with this Article in the event CONTRACTOR, at its sole option, elects for SUBCONTRACTOR to implement such change in

Applicable Code and Standard. In the event CONTRACTOR does not, at its sole option, elect for SUBCONTRACTOR to implement such change in Applicable Code and Standard, SUBCONTRACTOR shall not be required to perform in accordance with such Applicable Code and Standard.

32.4 All other modifications to this Subcontract shall be by written “Amendment” signed by both parties.

32.5 If at any time SUBCONTRACTOR believes that acts or omissions of CONTRACTOR or OWNER constitute a change to the Work not covered by a Change Notice, SUBCONTRACTOR shall within ten (10) Days of discovery of such act or omission submit a written “Change Notice Request” explaining in detail the basis for the request. CONTRACTOR will either issue a Change Notice or deny the request in writing within thirty (30) Days of the date of receipt of the Change Notice Request.

32.6 If any change under this clause directly or indirectly causes an increase or decrease in the cost of, or the time required for, the performance of any part of the Work under this Subcontract, whether or not changed by any order, an equitable adjustment shall be made and the Subcontract modified accordingly by written “Change Order.”

32.7 If the SUBCONTRACTOR intends to assert a claim for an equitable adjustment under this clause it must, within ten (10) Days after receipt of a Change Notice, provide written notification of such intent and within a further twenty (20) Days, pursuant to the Special Condition titled PRICING OF ADJUSTMENTS, submit to CONTRACTOR a written proposal setting forth the nature, schedule impact and monetary extent of such claim in sufficient detail to permit thorough analysis and negotiation.

32.8 Any delay by SUBCONTRACTOR in giving notice or presenting a proposal for adjustment under this clause shall be grounds for rejection of the claim if and to the extent CONTRACTOR or OWNER is prejudiced by such delay. In no case shall a claim by SUBCONTRACTOR be considered if asserted after final payment under this Subcontract.

32.9 Failure by CONTRACTOR and SUBCONTRACTOR to agree on any adjustment shall be a dispute within the meaning of the General Condition titled DISPUTES.

32.10 SUBCONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for relief, dispute, claim, appeal, or action arising under the Subcontract, and comply with any decision of CONTRACTOR.

GC-33 DISPUTES

33.1 Any claim arising out of or attributable to the interpretation or performance of this Subcontract, which cannot be resolved by negotiation, shall be considered a dispute within the meaning of this clause.

33.2 In the event of a dispute, SUBCONTRACTOR or CONTRACTOR shall notify the other party in writing that a dispute exists and request or provide a final determination by CONTRACTOR. Any such request by SUBCONTRACTOR shall be clearly identified by reference to this clause and shall summarize the facts in dispute and SUBCONTRACTOR’s proposal for resolution.

33.3 CONTRACTOR shall, within thirty (30) Days of any request by SUBCONTRACTOR, provide a written final determination setting forth the contractual basis for its decision and defining what

subcontract adjustments it considers equitable. Upon SUBCONTRACTOR's written acceptance of CONTRACTOR's determination the Subcontract will be modified and the determination implemented accordingly or, failing agreement, CONTRACTOR may in its sole discretion pay such amounts and/or revise the time for performance of the Work in accordance with CONTRACTOR's final determination.

33.4 If SUBCONTRACTOR does not accept CONTRACTOR's final determination, the matter shall within thirty (30) Days, be referred to senior executives of the parties who shall have designated authority to settle the dispute. The parties shall promptly prepare and exchange memoranda stating the issues in dispute and their respective positions, summarizing the negotiations that have taken place and attaching relevant documents.

33.5 The senior executives will meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty (30) Days of the commencement of such negotiations, the parties agree to resolve the dispute through Alternative Dispute Resolution (ADR) process in accordance with the Special Condition titled ARBITRATION.

33.6 SUBCONTRACTOR hereby agrees to be joined in any arbitration proceeding involving a dispute between OWNER and CONTRACTOR which relates to or is in connection, in whole or in part, with the Work of SUBCONTRACTOR.

GC-34 TITLE AND RISK OF LOSS

34.1 Where SUBCONTRACTOR fabricates or purchases equipment, materials or other tangible items (Goods) for incorporation into the Work or any of its separate parts, the title of such Goods shall pass to and be vested in CONTRACTOR when the first of the following events occurs:

(1) The Goods or part thereof is first identifiable as being appropriated to the Subcontract,

(2) When CONTRACTOR pays for the Goods or part thereof in accordance with the Subcontract, or

(3) When the Goods or part thereof are dispatched to or from SUBCONTRACTOR's fabrication yard or to the Jobsite.

All equipment, materials or other tangible items (Goods) for incorporation into the Work or any of its separate parts, shall be segregated within the SUBCONTRACTOR's facilities (except during the fabrication process) and physically identified by tag or marker as property of CONTRACTOR and as Project materials that will be incorporated into the Work.

34.2 SUBCONTRACTOR warrants and guarantees that legal title to and ownership of the Work shall be free and clear of any and all liens, claims, security interests or other encumbrances arising out of the Work when title thereto passes to CONTRACTOR, and if any such warranty or guarantee is breached, SUBCONTRACTOR shall have the liability and obligations set forth in General Condition titled INDEMNITY.

34.3 However such transfer of title in the Goods will be without prejudice of CONTRACTOR's right to refuse the Goods to the extent of SUBCONTRACTOR's negligence in case of non-conformity with the subcontract requirements.

34.4 Irrespective of transfer of title in the Goods, SUBCONTRACTOR shall remain responsible for risk of loss or damage to work in progress and all Goods to the extent of SUBCONTRACTOR's negligence until Provisional Acceptance.

34.5 SUBCONTRACTOR shall ensure that the above provisions are imposed upon its suppliers and subcontractors of any tier and shall execute all documents and take all steps necessary or required by CONTRACTOR to vest title as CONTRACTOR may direct.

34.6 Title to standard Goods of the type usually bought in bulk such as reinforcement bars, piping materials, non-tagged instruments and instrument installation material, cable and similar items which are not incorporated into the Work shall revert to SUBCONTRACTOR upon agreement by CONTRACTOR that such Goods are not required for the Work.

GC-35 QUALITY ASSURANCE PROGRAM

35.1 Within thirty (30) Days after Subcontract award, SUBCONTRACTOR shall submit a Project specific Quality Assurance Plan for engineering services and within ninety (90) Days after Subcontract award for fabrication and construction activities – for approval by CONTRACTOR.

35.2 The Project specific Quality Assurance Plan shall address all activities relevant to the Work and shall demonstrate how all work performed by SUBCONTRACTOR will conform to the subcontract requirements.

35.3 The plan shall address the interfaces between CONTRACTOR, SUBCONTRACTOR, and other relevant organizational entities. The plan shall include an organization chart showing SUBCONTRACTOR's corporate and Project organization responsible for managing, performing and verifying the Work. The organization chart shall be supported with a reporting and functional description of SUBCONTRACTOR's Project organization and identification of the quality related responsibilities of key positions.

35.4 The plan shall be updated as necessary throughout the Subcontract, to reflect any changes to SUBCONTRACTOR's documented quality system.

35.5 SUBCONTRACTOR's documented quality system shall provide for the issuance of a "Stop Work" order by SUBCONTRACTOR or CONTRACTOR at any time during the Work, when significant adverse quality trends and/or deviations from the approved Quality Assurance Program are found.

35.6 CONTRACTOR reserves the right to perform Quality Assurance Audits of SUBCONTRACTOR's approved Quality Assurance Program, including suppliers and subcontractors of any tier, at any stage of the Work.

35.7 CONTRACTOR has outlined basic quality system requirements in Appendix B-1, GENERAL REQUIREMENTS FOR SUBCONTRACTOR QUALITY SYSTEMS. As applicable, SUBCONTRACTOR shall comply with this Appendix B-1.

GC-36 RECORDS AND AUDIT

36.1 SUBCONTRACTOR shall keep full and detailed books, construction logs, records, daily reports, schedules, accounts, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Subcontract, as required under Applicable Law or this Subcontract, and in any way relating to this Subcontract. SUBCONTRACTOR shall maintain all such Books and Records in accordance with GAAP and shall retain all such Books and Records for a minimum period of three (3) years after Final Completion, or such greater period of time as may be required under Applicable Law.

36.2 Upon reasonable notice, CONTRACTOR or OWNER shall have the right to have audited, SUBCONTRACTOR's Books and Records by CONTRACTOR or OWNER's third party auditors but only to the extent necessary to validate payments made to SUBCONTRACTOR or invoiced by SUBCONTRACTOR on the basis of Reimbursable Costs. When requested by CONTRACTOR, SUBCONTRACTOR shall provide CONTRACTOR or OWNER's auditors with reasonable access to all such relevant Books and Records, and SUBCONTRACTOR's personnel shall cooperate with such auditors to effectuate the audit or audits hereunder. CONTRACTOR or OWNER shall have the right upon consent of SUBCONTRACTOR (such consent not to be unreasonably withheld or delayed) to have the auditors copy all such Books and Records. SUBCONTRACTOR shall bear all costs incurred by it in assisting with audits performed. SUBCONTRACTOR shall include audit provisions identical to this in all Major Subcontracts. No access to Books and Records shall be granted to CONTRACTOR's or OWNER's auditors until such auditors have signed a confidentiality agreement with SUBCONTRACTOR in accordance with the standard practice in the auditing industry for audits of this kind.

36.3 Within a reasonable period of time following a request by CONTRACTOR, SUBCONTRACTOR shall provide CONTRACTOR or OWNER's third party auditors with any information (including Books and Records) regarding quantities and descriptions of any Equipment installed on or ordered for the Facility and any other information as CONTRACTOR or OWNER's third party auditors may deem reasonably necessary in connection with the preparation of CONTRACTOR's or OWNER's tax returns (including information reasonably required to determine the amount of Qualified Research Expenditures incurred in connection with the Work) or other tax documentation in connection with the Project; provided, however, if, in connection with such preparation, CONTRACTOR or OWNER's third party auditors request information relating to the actual cost for any item of Work and such item of Work is included in the Subcontract price or in any lump sum Change Order, SUBCONTRACTOR shall provide such information to CONTRACTOR or OWNER's third party auditors as provided herein. No access to the aforementioned information (including Books and Records) shall be granted to CONTRACTOR's or OWNER's auditors until such auditors have signed a confidentiality agreement with Contractor in accordance with the standard practice in the auditing industry for audits of this kind.

36.4 If CONTRACTOR or OWNER establishes uniform codes of accounts for the Project, SUBCONTRACTOR shall use such codes in identifying its records and accounts.

36.5 SUBCONTRACTOR shall not, and shall provide that its Subsubcontractors and agents or employees of any of them shall not, without CONTRACTOR's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee or officer of CONTRACTOR OR OWNER or their Affiliates, (ii) favor employees or officers of same with gifts or entertainment of a significant cost or value, or (iii) enter into any business arrangements with employees or officers of same.

GC-37 WARRANTY / DEFECT CORRECTION PERIOD

37.1 SUBCONTRACTOR warrants that:

(1) The Work, including the Equipment, and each component thereof, shall be new (unless otherwise specified in this Subcontract) and of good quality;

(2) the Work (including the Equipment) shall be in accordance with all of the requirements of this Subcontract, including in accordance with GECP, Applicable Law and Applicable Codes and Standards; and

(3) the Work (including the Equipment) shall be free from encumbrances to title

37.2 Should the Plant or any part thereof cease operating due solely to corrective actions for warranty Defects, the Defect Correction Period shall be extended by a time equal to the duration of such stoppage.

37.3 SUBCONTRACTOR warrants that the written instructions regarding the use of equipment, including those instructions in operation and maintenance manuals, shall conform to this Subcontract and GECP as of the time such instructions are prepared. If any non-conformance with the Warranty occurs or is discovered at any time prior to or during the Defect Correction Period, SUBCONTRACTOR shall, at its sole expense, furnish CONTRACTOR with corrected instructions.

37.4 SUBCONTRACTOR shall, without additional cost to CONTRACTOR, obtain warranties from Subsubcontractors that meet or exceed the requirements of this Subcontract; provided, however, SUBCONTRACTOR shall not in any way be relieved of its responsibilities and liability to CONTRACTOR under this Subcontract, regardless of whether such Subsubcontractor warranties meet the requirements of this Subcontract, as SUBCONTRACTOR shall be fully responsible and liable to CONTRACTOR for its warranty and correction of Defective Work obligations and liability under this Agreement for all Work. All such warranties shall run to the benefit of SUBCONTRACTOR but shall permit SUBCONTRACTOR, prior to assignment to CONTRACTOR, the right (upon mutual agreement of the Parties), to authorize CONTRACTOR to deal with Subsubcontractor on SUBCONTRACTOR's behalf. Such warranties, with duly executed instruments assigning the warranties shall be delivered to CONTRACTOR concurrent with the end of the Defect Correction Period. This shall not in any way be construed to limit SUBCONTRACTOR's liability under this Subcontract for the entire Work or its obligation to enforce Subsubcontractor warranties.

37.5 The Warranty does not provide a remedy, and SUBCONTRACTOR shall have no liability to CONTRACTOR, for any damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by CONTRACTOR; (ii) operation, maintenance or use of the Facility, Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by SUBCONTRACTOR to CONTRACTOR; (iii) normal wear and tear; (iv) normal corrosion or (v) an event of Force Majeure, to the extent such event of Force Majeure occurs after Provisional Acceptance.

37.6 Prior to RFCD, all Work shall be subject to inspection by CONTRACTOR at all reasonable times to determine whether the Work conforms to the requirements of this Subcontract. Upon CONTRACTOR giving reasonable prior notice, SUBCONTRACTOR shall furnish CONTRACTOR with access to all locations where Work is in progress on the Site and at the offices of SUBCONTRACTOR and its Subsubcontractors. CONTRACTOR shall be entitled to provide SUBCONTRACTOR with written notice of any Work that CONTRACTOR believes does not conform to the requirements of this Subcontract. If any Work is Defective, then SUBCONTRACTOR shall, at its own expense correct such Defective Work. The cost of disassembling, dismantling or making safe finished Work for the purpose of inspection, and reassembling such portions (and any delay associated therewith) shall be borne by (i) SUBCONTRACTOR, if such Work is found not to conform with the requirements of this Subcontract and (ii) by CONTRACTOR, if such Work is found to conform with the requirements of this Subcontract.

37.7 CONTRACTOR shall provide SUBCONTRACTOR with a list of witness points for all equipment no later than sixty (60) Days after execution of the relevant Subcontract and CONTRACTOR shall notify SUBCONTRACTOR which of the witness points it wishes its personnel to witness. SUBCONTRACTOR shall provide CONTRACTOR with at least fifteen (15) Days prior written notice of the actual scheduled date of each of the tests CONTRACTOR has indicated it wishes to witness. SUBCONTRACTOR shall cooperate with CONTRACTOR if CONTRACTOR elects to witness any additional tests, and SUBCONTRACTOR acknowledges that CONTRACTOR shall have the right to witness all tests being performed in connection with the Work.

37.8 CONTRACTOR's right to conduct inspections shall not obligate CONTRACTOR to do so. Neither the exercise of CONTRACTOR of any such right, nor any failure on the part of CONTRACTOR to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect. In addition, CONTRACTOR's acceptance of any Work which is later determined to be Defective shall not in any way relieve SUBCONTRACTOR from its obligations to correct the Work

37.9 If, during the Defect Correction Period, any Work or component thereof is found to be Defective, and CONTRACTOR provides written notice to SUBCONTRACTOR within the Defect Correction Period regarding such Defect, SUBCONTRACTOR shall, at its sole cost and expense, promptly correct (whether by repair, replacement or otherwise) such Defective Work (the correction of the Defective Work is hereby defined as the "Corrective Work"). Any such notice from CONTRACTOR shall state with reasonable specificity the date of occurrence or observation of the alleged defect and the reasons supporting CONTRACTOR's belief that SUBCONTRACTOR is responsible for performing Corrective Work. CONTRACTOR shall provide SUBCONTRACTOR with access to the Work sufficient to perform its Corrective Work, so long as such access does not unreasonably interfere with operation of the Facility and subject to any reasonable security or safety requirements of CONTRACTOR and SUBCONTRACTOR. In the event SUBCONTRACTOR utilizes spare parts owned by CONTRACTOR in the course of performing the Corrective Work, SUBCONTRACTOR shall supply CONTRACTOR free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by SUBCONTRACTOR as soon as possible following the utilization of such spare parts.

37.10 If SUBCONTRACTOR fails to commence the Corrective Work within a reasonable period of time not to exceed ten (10) Business Days, or does not complete such Corrective Work promptly (and provided that CONTRACTOR provides SUBCONTRACTOR access to the Facility, then CONTRACTOR, upon providing prior written notice to SUBCONTRACTOR, may perform such Corrective Work, and SUBCONTRACTOR shall be liable to CONTRACTOR for the reasonable costs incurred by CONTRACTOR in connection with performing such Corrective Work, and shall pay CONTRACTOR, within ten (10) Days after receipt of written notice from CONTRACTOR, an amount equal to such costs (or, at CONTRACTOR's sole discretion, CONTRACTOR may withhold or offset amounts owed to SUBCONTRACTOR or collect on the Letter of Credit, if applicable, such costs and expenses); provided, however, if Defective Work discovered during the Defect Correction Period presents an imminent threat to the safety or health of any person and CONTRACTOR knows of such Defective Work, CONTRACTOR may perform such Corrective Work in order to correct such Defective Work without giving prior written notice to SUBCONTRACTOR. In such event, SUBCONTRACTOR shall be liable to CONTRACTOR for the reasonable costs incurred by CONTRACTOR in connection with performing such Corrective Work, and shall pay CONTRACTOR, after receipt of written notice from CONTRACTOR, an amount equal to such costs (or, at CONTRACTOR's sole discretion, CONTRACTOR may withhold or offset amounts owed to SUBCONTRACTOR or collect on the Letter of Credit, if applicable, such costs). To the extent any Corrective Work is performed by or on behalf of

CONTRACTOR, SUBCONTRACTOR's obligations with respect to such Defective Work that is corrected by on or behalf of CONTRACTOR shall be relieved, with the exception of SUBCONTRACTOR's obligation to pay CONTRACTOR the reasonable costs incurred by CONTRACTOR in connection with performing such Corrective Work.

37.11 With respect to any Corrective Work performed by SUBCONTRACTOR, the Defect Correction Period for such Corrective Work shall be extended for an additional one (1) year from the date of the completion of such Corrective Work; provided, however, in no event shall the Defect Correction Period for any Work (including Corrective Work) extend beyond thirty-six (36) months after SUBCONTRACTOR's achievement of RFCD of the last tank.

37.12 All Corrective Work shall be performed subject to the same terms and conditions under this Subcontract as the original Work is required to be performed. In connection with the Corrective Work, any change to Equipment that would alter the requirements of this Subcontract may be made only with prior written approval of CONTRACTOR.

37.13 SUBCONTRACTOR shall not be liable to CONTRACTOR for any Defective Work discovered after the expiration of the Defect Correction Period (as may be extended pursuant to GC-37.11), except for any liability of SUBCONTRACTOR pursuant to its indemnification, defense and hold harmless obligations under this Subcontract but such indemnification defense or hold harmless obligation are not warranty obligations under this section.

37.14 The Warranties made in this Subcontract shall be for the benefit of CONTRACTOR and its successors and permitted assigns and the respective successors and permitted assigns of any of them, and are fully transferable and assignable.

37.15 THE EXPRESS WARRANTIES SET FORTH IN THIS SUBCONTRACT ARE EXCLUSIVE AND NO OTHER WARRANTIES OR CONDITIONS SHALL APPLY. THE PARTIES HEREBY DISCLAIM, AND CONTRACTOR HEREBY WAIVES ANY AND ALL WARRANTIES IMPLIED UNDER APPLICABLE LAW (INCLUDING THE GOVERNING LAW) INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

37.16 Notwithstanding any provision of this clause, SUBCONTRACTOR shall bear the responsibility of repairs to its Work under this warranty provision. CONTRACTOR shall bear the responsibility to gas free and place tank into service.

GC-38 BACKCHARGES

38.1 Upon CONTRACTOR's written notice to SUBCONTRACTOR, CONTRACTOR may, in addition to any other amounts to be retained hereunder, retain from any sums otherwise owing to SUBCONTRACTOR amounts sufficient to cover the costs of any of the following:

(1) SUBCONTRACTOR's failure to comply with any provision of this Subcontract or SUBCONTRACTOR's acts or omissions in the performance of any part of this Subcontract, including, but not limited to, violation of any applicable law, order, rule or regulation, including those regarding safety, hazardous materials or environmental requirements;

(2) Correction of defective or nonconforming work by redesign, repair, rework, replacement or other appropriate means when SUBCONTRACTOR states, or by its actions indicates, that it is unable or unwilling to proceed with corrective action in a reasonable time; and/or

(3) CONTRACTOR agrees to or is required to take action or perform work for SUBCONTRACTOR, such as cleanup, off-loading or completion of incomplete work.

38.2 CONTRACTOR may, if no funds are owing to SUBCONTRACTOR, backcharge SUBCONTRACTOR for work done or cost incurred to remedy these or any other SUBCONTRACTOR defaults, errors, omissions or failures to perform or observe any part of this Subcontract.

38.3 The cost to correct a SUBCONTRACTOR failure to comply or act as outlined above shall be CONTRACTOR's documented direct and indirect costs resulting therefrom.

38.4 CONTRACTOR shall separately invoice or deduct from payments otherwise due to SUBCONTRACTOR the costs as provided herein. CONTRACTOR's right to backcharge is in addition to any and all other rights and remedies provided in this Subcontract or by law. The performance of backcharge work by CONTRACTOR shall not relieve SUBCONTRACTOR of any of its responsibilities under this Subcontract including but not limited to express warranties, specified standards for quality, contractual liabilities and indemnifications, and meeting the Contract Milestones of the Special Condition titled COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.

GC-39 INDEMNITY

39.1 In addition to its indemnification, defense and hold harmless obligations contained elsewhere in this Subcontract, SUBCONTRACTOR shall indemnify, hold harmless and defend the CONTRACTOR GROUP and OWNER Group from any and all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) to the extent that such damages, losses, costs and expenses result from any of the following:

(1) failure of SUBCONTRACTOR or its Subsubcontractors to comply with Applicable Law; provided that this indemnity shall be limited to fines and penalties imposed on CONTRACTOR GROUP and OWNER Group and resulting from the failure of SUBCONTRACTOR or its Subsubcontractors to comply with Applicable Law;

(2) any and all damages, losses, costs and expenses suffered by a Third Party and resulting from actual or asserted violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property owned by a Third Party to the extent that such violation or infringement results from performance of the Work by Subcontractor or any of its Subsubcontractors, or any improper use of Third Party confidential information or other Third Party proprietary rights that may be attributable to SUBCONTRACTOR or any of its Subsubcontractors in connection with the Work;

(3) contamination or pollution suffered by a Third Party to the extent resulting from SUBCONTRACTOR's or any Subsubcontractor's use, handling or disposal of Hazardous Materials brought on the Site or on the Off-Site Rights of Ways and Easements by SUBCONTRACTOR or any Subsubcontractor;

(4) failure by SUBCONTRACTOR or any Subsubcontractor to pay Taxes for which such Party is liable;

(5) failure of SUBCONTRACTOR to make payments to any Subsubcontractor in accordance with the respective Subcontract, but not extending to any settlement payment made by to any Subsubcontractor against which SUBCONTRACTOR has pending or prospective claims, unless such settlement is made with SUBCONRACTOR's consent, except after assumption of such Subcontract by CONTRACTOR in accordance with GC-45.2; or

(6) personal injury to or death of any Person (other than employees of any member of the SUBCONTRACTOR, CONTRACTOR Group or the OWNER Group or any Subsubcontractor), and damage to or destruction of property of Third Parties to the extent arising out of or resulting from the negligence in connection with the Work of any member of the SUBCONTRACTOR or any Subsubcontractor or anyone directly or indirectly employed by them.

39.2 **NOTWITHSTANDING THE PROVISIONS OF GC-39.1 ABOVE, SUBCONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR GROUP FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL**

REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY MEMBER OF THE SUBCONTRACTOR GROUP OR ANY SUBSUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY MEMBER OF THE SUBCONTRACTOR OR ANY SUBSUBCONTRACTOR PRIOR TO PROVISIONAL ACCEPTANCE OCCURRING IN CONNECTION WITH THE WORK OR THE PROJECT, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF ANY MEMBER OF THE CONTRACTOR GROUP AND OWNER GROUP.

39.3 **EXCEPT AS OTHERWISE PROVIDED IN GC 39.2, GC-34.4 AND THE GENERAL CONDITION TITLED TERMINATION FOR DEFAULT, CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE SUBCONTRACTOR FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL REASONABLE ATTORNEYS' FEES, AND LITIGATION OR ARBITRATION EXPENSES) ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF ANY EMPLOYEES, OFFICERS OR DIRECTORS OF CONTRACTOR GROUP AND OWNER GROUP; (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR AND DAMAGE TO OR DESTRUCTION OF THE FACILITY AND THE PROJECT PRIOR TO PROVISIONAL ACCEPTANCE OCCURRING IN CONNECTION WITH THE PROJECT, REGARDLESS OF THE CAUSE OF SUCH INJURY, DEATH, DAMAGE OR DESTRUCTION, INCLUDING THE SOLE OR JOINT NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LIABILITY OF THE SUBCONTRACTOR.**

39.4 Should SUBCONTRACTOR or any Subsubcontractor or any other person, including any construction equipment lessor, acting through or under any of them file a lien or other encumbrance against all or any portion of the Work, the Site or the Facility, SUBCONTRACTOR shall, at its sole cost and expense, remove or discharge, by payment, bond or otherwise, such lien or encumbrance within twenty-one (21) Days of SUBCONTRACTOR's receipt of written notice from CONTRACTOR notifying SUBCONTRACTOR of such lien or encumbrance; provided that CONTRACTOR shall have made payment of all amounts properly due and owing to SUBCONTRACTOR under this Subcontract, other than amounts disputed. If SUBCONTRACTOR fails to remove or discharge any such lien or encumbrance within such twenty-one (21) Day period in circumstances where CONTRACTOR has made payment of all amounts properly due and owing to SUBCONTRACTOR under this Agreement, other than amounts disputed, then CONTRACTOR may, in its sole discretion and in addition to any other rights that it has under this Subcontract, remove or discharge such lien and encumbrance using whatever means that CONTRACTOR, in its sole discretion, deems appropriate, including the payment of settlement amounts that it determines in its sole discretion as being necessary to remove or discharge such lien or encumbrance. In such circumstance, SUBCONTRACTOR shall be liable to CONTRACTOR for all damages, costs, losses and expenses (including all reasonable attorneys' fees, consultant fees and arbitration expenses, and settlement payments) incurred by CONTRACTOR arising out of or relating to such removal or discharge. All such damages, costs, losses and expenses shall be paid by SUBCONTRACTOR no later than thirty (30) Days after receipt of each invoice from CONTRACTOR.

39.5 Not later than fifteen (15) Days after receipt of written notice from the Indemnified Party to the Indemnifying Party of any claims, demands, actions or causes of action asserted against such Indemnified Party for which the Indemnifying Party has indemnification, defense and hold harmless obligations under this Subcontract, whether such claim, demand, action or cause of action is asserted in a legal, judicial, arbitral or administrative proceeding or action or by notice without institution of such legal, judicial, arbitral or administrative proceeding or action, the Indemnifying Party shall affirm in writing by notice to such Indemnified Party that the Indemnifying Party will indemnify, defend and hold harmless such Indemnified Party and shall, at the

Indemnifying Party's own cost and expense, assume on behalf of the Indemnified Party and conduct with due diligence and in good faith the defense thereof with counsel selected by the Indemnifying Party and reasonably satisfactory to such Indemnified Party; provided, however, that such Indemnified Party shall have the right to be represented therein by advisory counsel of its own selection, and at its own expense; and provided further that if the defendants in any such action or proceeding include the Indemnifying Party and an Indemnified Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, such Indemnified Party shall have the right to select up to one separate counsel to participate in the defense of such action or proceeding on its own behalf at the reasonable expense of the Indemnifying Party. In the event of the failure of the Indemnifying Party to perform fully in accordance with the defense obligations under this GC-39.6, such Indemnified Party may, at its option, and without relieving the Indemnifying Party of its obligations hereunder, so perform, but all damages, costs and expenses (including all reasonable attorneys' fees, and litigation or arbitration expenses, settlement payments and judgments) so incurred by such Indemnified Party in that event shall be reimbursed by the Indemnifying Party to such Indemnified Party, together with reasonable interest on same from the date any such cost and expense was paid by such Indemnified Party until reimbursed by the Indemnifying Party.

39.6 Except as otherwise set forth in 39.2 and 39.3 above, the indemnity, defense and hold harmless obligations for personal injury or death or property damage under this Subcontract shall apply regardless of whether the indemnified party was concurrently negligent (whether actively or passively), it being agreed by the parties that in this event, the parties' respective liability or responsibility for such damages, losses, costs and expenses under this Article shall be determined in accordance with principles of comparative negligence.

39.7 CONTRACTOR and SUBCONTRACTOR agree that the Louisiana Oilfield Anti-indemnity Act, LA. Rev. Stat. §9:2780, et. Seq., is inapplicable to this agreement and the performance of the work. Application of these code sections to this agreement would be contrary to the intent of the parties, and each party hereby irrevocably waives any contention that these codes sections are applicable to this agreement or the work. In addition, it is the intent of the parties in the event that the aforementioned act were to apply that each party shall provide insurance to cover the losses contemplated by such code sections and assumed by each such party under the indemnification provisions of this agreement, and subcontractor agrees that the Subcontract price (as may be adjusted by change order in accordance with the General Condition titled CHANGES, compensates SUBCONTRACTOR for the cost of premiums for the insurance provided by it under this agreement. The parties agree that each party's agreement to support their indemnification obligations by insurance shall in no respect impair their indemnification obligations.

39.8 In the event that any indemnity provisions in this agreement are contrary to the law governing this agreement, then the indemnity obligations applicable hereunder shall be applied to the maximum extent allowed by applicable law.

39.9 SUBCONTRACTOR specifically waives any immunity provided against this indemnity by an industrial insurance or workers' compensation statute.

GC-40 PATENT AND INTELLECTUAL PROPERTY INDEMNITY

40.1 SUBCONTRACTOR hereby indemnifies and shall defend and hold harmless CONTRACTOR, OWNER, and their representatives from and against any and all claims, actions, losses, damages, and expenses, including attorney's fees, arising from any claim, whether rightful or otherwise, that any concept, product, design, equipment, material, process, copyrighted material or confidential information, or any part thereof, furnished by SUBCONTRACTOR under this Subcontract constitutes an infringement of any patent or copyrighted material or a theft of trade

secrets. If use of any part of such concept, product, design, equipment, material, process, copyrighted material or confidential information is limited or prohibited, SUBCONTRACTOR shall, at its sole expense, procure the necessary licenses to use the infringing or a modified but non-infringing concept, product, design, equipment, material, process, copyrighted material or confidential information or, with CONTRACTOR's prior written approval, replace it with substantially equal but non-infringing concepts, products, designs, equipment, materials, processes, copyrighted material or confidential information; provided, however,

(1) That any such substituted or modified concepts, products, designs, equipment, material, processes, copyrighted material or confidential information shall meet all the requirements and be subject to all the provisions of this Subcontract; and

(2) That such replacement or modification shall not modify or relieve SUBCONTRACTOR of its obligations under this Subcontract.

40.2 The foregoing obligation shall not apply to any concept, product, design, equipment, material, process, copyrighted material or confidential information the detailed design of which (excluding rating and/or performance specifications) has been furnished in writing by CONTRACTOR or OWNER to SUBCONTRACTOR.

40.3 In the event that any violation or infringement for which SUBCONTRACTOR is responsible to indemnify the CONTRACTOR Group and OWNER Group as set forth in GC-39.1 and 40.1 above results in any suit, claim, temporary restraining order or preliminary injunction SUBCONTRACTOR shall, in addition to its obligations under GC-39, make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order. If, in any such suit or claim, the Work, the Facility, or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, SUBCONTRACTOR shall promptly make every reasonable effort to secure for CONTRACTOR and OWNER a license, at no cost to CONTRACTOR or OWNER, authorizing continued use of the infringing Work. If SUBCONTRACTOR is unable to secure such a license within a reasonable time, SUBCONTRACTOR shall, at its own expense and without impairing performance requirements, either replace the affected Work, in whole or part, with non-infringing components or parts or modify the same so that they become non-infringing.

GC-41 RIGHT TO WORK TOOLS AND WORK PRODUCT

41.1 CONTRACTOR and/or OWNER shall have, and SUBCONTRACTOR hereby grants CONTRACTOR and/or OWNER, a permanent, assignable, non-exclusive, royalty-free license to use any concept, product, process (patentable or otherwise), copyrighted material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs, and electronic software), and confidential information owned by SUBCONTRACTOR upon commencement of the Work under this Subcontract and used by SUBCONTRACTOR or furnished or supplied to CONTRACTOR and/or OWNER by SUBCONTRACTOR in the course of performance under this Subcontract in connection with the Project (collectively the "Work Product").

41.2 SUBCONTRACTOR acknowledges that it is not authorized to include any concept, process concept, product, process (patentable or otherwise), copyrightable material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs and electronic software) or confidential information which is first developed, produced or reduced to practice by SUBCONTRACTOR or any of its employees in the performance of this Subcontract ("Subcontractor Inventions") in the Work Product of SUBCONTRACTOR. Prior to including any such Subcontractor Invention in the Work Product of Subcontractor, SUBCONTRACTOR shall obtain the written consent of CONTRACTOR.

If CONTRACTOR agrees to the inclusion of such SUBCONTRACTOR Inventions in the Work Product of SUBCONTRACTOR, CONTRACTOR shall notify SUBCONTRACTOR in writing and SUBCONTRACTOR and CONTRACTOR shall discuss and agree the terms and conditions of any such inclusion. If CONTRACTOR does not agree in writing to the inclusion of any such Subcontractor Inventions in the Work Product and SUBCONTRACTOR includes such Subcontractor Inventions notwithstanding its failure to obtain CONTRACTOR's consent, any such Subcontractor Invention shall be the property of OWNER upon its creation and SUBCONTRACTOR agrees to do all things reasonable necessary, at CONTRACTOR's or OWNER's expense and as CONTRACTOR or OWNER directs, to obtain patents or copyrights on any portion of such Work Product to the extent the same may be patentable or copyrightable. SUBCONTRACTOR further agrees to execute and deliver or cause to be executed or delivered such documents, including in particular instruments or assignment, as CONTRACTOR and/or OWNER may in its discretion deem necessary or desirable to assign and transfer title to such Work Product to OWNER and to carry out the provisions of this clause.

41.3 SUBCONTRACTOR shall identify portions of the Work Product, which contain Third Party Proprietary Work Product for which OWNER shall need to obtain permission from the appropriate owners of such Third Party Proprietary Work Product for use by OWNER on projects other than the Project. Notwithstanding anything to the contrary in this Subcontract, no license is granted to CONTRACTOR or OWNER with respect to the use of any SUBCONTRACTOR proprietary software or systems.

41.4 All work product, and all copies thereof, shall be returned or delivered to CONTRACTOR upon the earlier of expiration of the Defect Correction Period and termination of this Subcontract, except that (i) SUBCONTRACTOR may, subject to its confidentiality obligations set forth in the General Condition titled NONDISCLOSURE, retain one record set of the work product and may use and modify such work product, and (ii) subcontractors and sub-tier subcontractors may retain any work product generated by them so long as CONTRACTOR has been provided the following copies of such work product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets each of fully editable and operable native and .pdf files of documents on CD for all such drawings and specifications.

41.5 All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by CONTRACTOR or OWNER or any of CONTRACTOR's or OWNER's other consultants or contractors shall at all times remain the property of OWNER, and SUBCONTRACTOR shall not make use of any such documents or other media for any other project or for any other purpose than as set forth herein. All such documents and other media, including all copies thereof, shall be returned to CONTRACTOR upon the earlier of expiration of the Defect Correction Period and termination of this Subcontract, except that SUBCONTRACTOR may, subject to its confidentiality obligations as set forth in GC 43, retain one record set of such documents or other media.

41.6 In addition, CONTRACTOR and OWNER shall be entitled to modify the Work Product of SUBCONTRACTOR, including SUBCONTRACTOR's intellectual property which may be imbedded in the Work Product in connection with the Project, provided that CONTRACTOR or OWNER shall first remove, or cause to be removed, all references to SUBCONTRACTOR from the Work Product and SUBCONTRACTOR's intellectual property imbedded in the Work Product. CONTRACTOR shall defend, indemnify and hold SUBCONTRACTOR harmless from and against all damages, losses, costs and expenses (including all reasonable attorneys' fees and litigation or arbitration expenses) incurred by SUBCONTRACTOR and caused by any modifications to the Work Product or SUBCONTRACTOR's intellectual property.

GC-42 ASSIGNMENTS AND SUBCONTRACTS

42.1 Any SUBCONTRACTOR assignment of this Subcontract or rights hereunder, in whole or part, without the prior written consent of CONTRACTOR shall be void, except that upon ten (10) Days written notice to CONTRACTOR, SUBCONTRACTOR may assign monies due or to become due under this Subcontract, provided that any assignment of monies shall be subject to proper set-offs in favor of CONTRACTOR and any deductions provided for in this Subcontract.

42.2 SUBCONTRACTOR shall not subcontract with any third party for the performance of all or any portion of the Work without the advance written approval of CONTRACTOR. Purchase orders and subcontracts of any tier must include provisions to secure all rights and remedies of CONTRACTOR and OWNER provided under this Subcontract, and must impose upon the lower-tier supplier and subcontractor all of the duties and obligations required to fulfill this Subcontract.

42.3 All Subsubcontracts shall, so far as reasonably practicable, be consistent with the terms or provisions of this Agreement. No subcontractor or sub-tier subcontractor is intended to be or shall be deemed a third-party beneficiary of this Subcontract.

42.4 SUBCONTRACTOR shall (i) notify CONTRACTOR of its proposed Major Subsubcontractor as soon as reasonably practicable during the selection process and furnish to CONTRACTOR all information reasonably requested with respect to SUBCONTRACTOR's selection criteria, and (ii) notify CONTRACTOR no less than ten (10) Business Days prior to the execution of a Major Subsubcontract with a Major Subsubcontractor. CONTRACTOR shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subsubcontractor for a Major Subcontract. SUBCONTRACTOR shall not enter into any Major Subcontract with a proposed Major Subcontractor that is rejected by CONTRACTOR in accordance with the preceding sentence. CONTRACTOR shall undertake in good faith to review the information provided by SUBCONTRACTOR, expeditiously and shall notify SUBCONTRACTOR of its decision to accept or reject a proposed Major Subsubcontractor as soon as practicable after such decision is made. Failure of CONTRACTOR to accept or reject a proposed Major Subsubcontractor within twenty (20) Business Days shall be deemed to be an acceptance of such Major Subsubcontractor, but CONTRACTOR's acceptance of a proposed Major Subsubcontractor shall in no way relieve SUBCONTRACTOR of its responsibility for performing the Work in compliance with this SUBCONTRACT.

42.5 For any Subsubcontractor having a Subsubcontract value in excess of One Million U.S. Dollars (U.S. $1,000,000), SUBCONTRACTOR shall, within fifteen (15) Business Days after the execution of any such Subsubcontract, notify CONTRACTOR in writing of the selection of such Subsubcontractor and inform CONTRACTOR generally what portion of the Work such Subsubcontractor is performing.

42.6 Within ten (10) Days of CONTRACTOR's request, SUBCONTRACTOR shall furnish CONTRACTOR with a copy of any Subsubcontract, excluding provisions regarding pricing, discount or credit information, payment terms, payment schedules, retention, performance security, bid or proposal data, and any other information which SUBCONTRACTOR or any Subsubcontractor reasonably considers to be commercially sensitive information.

42.7 In addition to the requirements above and without in any way relieving SUBCONTRACTOR of its full responsibility to CONTRACTOR for the acts and omissions of Subsubcontractors, each Major Subsubcontract shall contain the following provisions:

"This Subsubcontract and any subcontract between Subsubcontractor and any of its lower-tier subcontractors may be assigned to OWNER without the consent of Subsubcontractor or any of its lower-tier subcontractors provided, however, with respect to each Construction Equipment rental or lease agreement, Subsubcontractor shall only be obligated to use its best efforts to include a

provision that such agreement may be assigned to OWNER without the consent of the respective Construction Equipment Lessor; and so far as reasonably practicable, the Subsubcontractor shall comply with all requirements and obligations of SUBCONTRACTOR and CONTRACTOR to OWNER under their Agreement, as such requirements and obligations are applicable to the performance of the Work under the respective Subsubcontract."

42.8 This Subcontract may be assigned to other persons only upon the prior written consent of the non-assigning Party hereto, except that CONTRACTOR may assign this Agreement to any of its Affiliates by providing notice to SUBCONTRACTOR. Furthermore, OWNER may, for the purpose of providing collateral, assign, pledge and/or grant a security interest in this Subcontract to any Lender without SUBCONTRACTOR's consent. When duly assigned in accordance with the foregoing, this Subcontract shall be binding upon and shall inure to the benefit of the assignee; provided that any assignment by SUBCONTRACTOR, CONTRACTOR OR OWNER shall not relieve SUBCONTRACTOR, CONTRACTOR or OWNER (as applicable) of any of its obligations or liabilities under this Subcontract. Any assignment not in accordance with this Article shall be void and without force or effect, and any attempt to assign this Subcontract in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Subcontract at its option for Default.

42.9 This Subcontract shall be binding upon the Parties hereto, their successors and permitted assigns.

GC-43 NONDISCLOSURE

43.1 SUBCONTRACTOR agrees not to divulge to third parties, without the written consent of CONTRACTOR or OWNER, any information obtained from or through CONTRACTOR or OWNER in connection with the performance of this Subcontract unless;

(1) The information is known to SUBCONTRACTOR prior to obtaining the same from CONTRACTOR or OWNER;

(2) The information is, at the time of disclosure by SUBCONTRACTOR, then in the public domain; or

(3) The information is obtained by SUBCONTRACTOR from a third party who did not receive same, directly or indirectly from CONTRACTOR or OWNER and who has no obligation of secrecy with respect thereto.

43.2 SUBCONTRACTOR further agrees that it will not, without the prior written consent of CONTRACTOR or OWNER, disclose to any third party any information developed or obtained by SUBCONTRACTOR in the performance of this Subcontract except to the extent that such information falls within one of the categories described in (1) through (3) above.

43.3 If so requested by CONTRACTOR or OWNER, SUBCONTRACTOR further agrees to require its employees to execute a nondisclosure agreement prior to performing any work under this Subcontract.

43.4 SUBCONTRACTOR hereby covenants and warrants that SUBCONTRACTOR and its employees and agents shall not (without in each instance obtaining CONTRACTOR's prior written consent) disclose, make commercial or other use of, or give or sell to any person, other than to members of the SUBCONTRACTOR Group and Subsubcontractors as necessary to perform the Work, any information conspicuously marked and identified in writing as confidential and relating to the business, products, services, research or development, clients or customers of CONTRACTOR or OWNER or any CONTRACTOR or OWNER Affiliate, or relating to similar information of a Third Party who has entrusted such information to OWNER or CONTRACTOR any of their Affiliates (hereinafter individually or collectively, "OWNER's or CONTRACTOR's Confidential Information"). Prior to disclosing any such information to any Subsubcontractor as necessary to perform the Work, SUBCONTRACTOR shall bind such Subsubcontractor to the confidentiality obligations contained in this GC-43.4. Nothing in this GC-43.4 or this Subcontract shall in any way prohibit SUBCONTRACTOR or any of its Subsubcontractors from making commercial or other use of, selling, or disclosing any of their respective SUBCONTRACTOR's Intellectual Property or Third Party Proprietary Work Product.

43.5 Confidential Information shall not include: (i) information which at the time of disclosure or acquisition is in the public domain, or which after disclosure or acquisition becomes part of the public domain without violation of GC-43.4; (ii) information which at the time of disclosure or acquisition was already in the possession of the Receiving Party or its employees or agents and was not previously acquired from the Disclosing Party or any of its employees or agents directly or indirectly; (iii) information which the Receiving Party can show was acquired by such entity after the time of disclosure or acquisition hereunder from a Third Party without any confidentiality commitment, if, to the best of Receiving Party's or its employees' or agent's knowledge, such Third Party did not acquire it, directly or indirectly, from the Disclosing Party or any of its employees or agents; (iv) information independently developed by the Receiving Party without benefit of the Confidential Information; and (v) information which a Party believes in good faith is required to be disclosed in connection with the Project by Applicable Law, any Governmental Instrumentality (including the FERC), applicable securities laws or the rules of any stock exchange; provided, however, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed.

43.6 The Parties acknowledge that in the event of a breach of any of the terms contained in this GC-43.4, the Disclosing Party would suffer irreparable harm for which remedies at law, including damages, would be inadequate, and that the Disclosing Party shall be entitled to seek equitable relief therefor by injunction, without the requirement of posting a bond.

43.7 The confidentiality obligations of this GC-43.4 shall expire upon the earlier of a period of ten (10) years following (i) the termination of this Subcontract or (ii) Final Completion.

GC-44 SUSPENSION

44.1 CONTRACTOR may by written notice to SUBCONTRACTOR, suspend at any time the performance of all or any portion of the Work to be performed under the Subcontract. Upon receipt of such notice, SUBCONTRACTOR shall, unless the notice requires otherwise:

(1) Immediately discontinue Work on the date and to the extent specified in the notice;

(2) Place no further orders or subcontracts for material, services, or facilities with respect to suspended Work other than to the extent required in the notice;

(3) Promptly make every reasonable effort to obtain suspension upon terms satisfactory to CONTRACTOR of all orders, subcontracts and rental agreements to the extent they relate to performance of suspended Work;

(4) Continue to protect and maintain the Work including those portions on which Work has been suspended; and

(5) Take any other reasonable steps to minimize costs associated with such suspension.

(6) CONTRACTOR shall give SUBCONTRACTOR instructions during suspension whether to maintain its staff and labor on or near the Site and otherwise be ready to proceed expeditiously with the Work as soon as reasonably practicable after receipt of CONTRACTOR's further instructions. Unless otherwise instructed by CONTRACTOR, SUBCONTRACTOR shall during any such suspension maintain its staff and labor on or near the Site and otherwise be ready to proceed expeditiously with the Work as soon as reasonably practicable after receipt of CONTRACTOR's further instructions.

44.2 Upon receipt of notice to resume suspended work, SUBCONTRACTOR shall immediately resume performance under this Subcontract to the extent required in the notice.

44.3 If SUBCONTRACTOR intends to assert a claim for equitable adjustment under this clause it must, pursuant to the General Condition titled CHANGES and within ten (10) Days after receipt of notice to resume work, submit the required written notification of claim and within twenty (20) Days thereafter its written proposal setting forth the impact of such claim.

44.4 In no event shall SUBCONTRACTOR be entitled to any additional profits or damages due to such suspension.

GC-45 TERMINATION FOR DEFAULT

45.1 Notwithstanding any other provisions of this Subcontract, SUBCONTRACTOR shall be considered in default of its contractual obligations under this Subcontract if it:

(1) Performs work which fails to conform to the requirements of this Subcontract;

(2) Fails to make progress so as to endanger performance of this Subcontract;

(3) Abandons or refuses to proceed with any of the Work, including modifications directed pursuant to the General Condition titled CHANGES;

(4) Fails to fulfill or comply with any of the other material terms of this Subcontract;

(5) Fails to commence the Work in accordance with the provisions of this Agreement;

(6) Abandons the Work;

(7) Fails to maintain insurance required under this Agreement;

(8) Materially disregards Applicable Law or Applicable Standards and Codes;

(9) Engages in behavior that is dishonest, fraudulent or constitutes a conflict with SUBCONTRACTOR’s obligations under this Subcontract; or if

(10) SUBCONTRACTOR suffers an “Insolvency Event” or makes a general assignment for the benefit of creditors. An “Insolvency Event” in relation to any Party shall mean the bankruptcy, insolvency, liquidation, administration, administrative or other receivership or dissolution of such Party, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution or making a general assignment or filing for the benefit of its creditors) for or with a view toward any of the foregoing.

45.2 Upon the occurrence of any of the foregoing, CONTRACTOR shall notify SUBCONTRACTOR in writing of the nature of the failure and of CONTRACTOR’s intention to terminate the Subcontract or a specified portion of the Work for default. If SUBCONTRACTOR does not cure such failure within ten (10) Days after receipt of notification or, with respect to circumstances listed in subsections (1) through (9) above in clause GC-45.1, fails to provide satisfactory evidence that such default will be corrected within a reasonable time, CONTRACTOR may, by written notice to SUBCONTRACTOR and without notice to SUBCONTRACTOR’s sureties, if any, terminate in whole or in part SUBCONTRACTOR’s right to proceed with the Work and CONTRACTOR may prosecute the Work to completion by contract or by any other method deemed expedient. If SUBCONTRACTOR default is due to an Insolvency Event as addressed in subsection (10) above in clause GC-45.1, CONTRACTOR may, by written notice to SUBCONTRACTOR and without

notice to SUBCONTRACTOR's sureties, if any, immediately terminate in whole or in part SUBCONTRACTOR's right to proceed with the Work and CONTRACTOR may prosecute the Work to completion by contract or by any other method deemed expedient. In addition, upon the occurrence of a default by SUBCONTRACTOR, CONTRACTOR may take possession of and utilize any data, designs, licenses, materials, equipment, and tools furnished by SUBCONTRACTOR and necessary to complete the Work, hire any or all of SUBCONTRACTOR's employees and take assignment of any or all of the subcontracts. SUBCONTRACTOR's equipment and tools shall be returned upon completion of the Work, except to the extent title to the Goods passed to CONTRACTOR under the General Condition titled TITLE AND RISK OF LOSS.

45.3 Notwithstanding the preceding subclauses, CONTRACTOR may immediately terminate this Subcontract for default if SUBCONTRACTOR's breach of its contractual obligations is considered not curable or for failure to cure safety violations.

45.4 SUBCONTRACTOR and its sureties, if any, shall be liable for all costs in excess of the Subcontract price for such terminated work reasonably and necessarily incurred in the completion of the Work, including acceleration in order to achieve the RFCD milestone dates, attorneys' fees, consultant fees and cost of administration of any purchase order or subcontract awarded to others for completion.

45.5 In addition to the amounts recoverable above, CONTRACTOR shall be entitled to delay damages under this Article which, for this purpose, means Delay Liquidated Damages owed by SUBCONTRACTOR to CONTRACTOR, if any, under this Subcontract up to the date of termination.

45.6 Upon termination for default, SUBCONTRACTOR shall:

(1) Immediately discontinue work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated work;

(2) Inventory, maintain and turn over to CONTRACTOR all data, designs, licenses, equipment, materials, tools, and property furnished by SUBCONTRACTOR or provided by CONTRACTOR for performance of the terminated work subject to it being returned upon completion of the Work;

(3) Upon CONTRACTOR's written instructions, either promptly obtain cancellation upon terms satisfactory to CONTRACTOR of all purchase orders, subcontracts, rentals, or any other agreements existing for performance of the terminated work or assign those agreements as directed by CONTRACTOR or assign such agreements to CONTRACTOR or OWNER in accordance with GC-45.2 above;

(4) Cooperate with CONTRACTOR in the transfer of data, designs, licenses and information and disposition of work in progress so as to mitigate damages;

(5) Comply with other reasonable requests from CONTRACTOR regarding the terminated work; and

(6) Continue to perform in accordance with all of the terms and conditions of this Subcontract such portion of the Work that is not terminated.

45.7 If, after termination pursuant to this clause, it is determined for any reason that SUBCONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the General Condition titled OPTIONAL TERMINATION.

45.8 Notwithstanding any other provisions of this Subcontract, CONTRACTOR shall be considered in default of its contractual obligations under this Subcontract, if it:

(1) Fails to make any payment of any undisputed amount to SUBCONTRACTOR as required by the Subcontract.

(2) If CONTRACTOR fails to pay any undisputed amount due and owing to SUBCONTRACTOR and such failure continues for more than thirty (30) Days after the due date for such payment, then SUBCONTRACTOR may suspend performance of the Work until SUBCONTRACTOR receives such undisputed amounts. Prior to any such suspension, SUBCONTRACTOR shall provide CONTRACTOR with at least fourteen (14) Days' prior notice of its intent to suspend performance of the Work. SUBCONTRACTOR shall be entitled to change order on account of any suspension in accordance with this section.

(3) If CONTRACTOR does not cure such failure within 30 Days after receipt of notification, or fails to provide satisfactory evidence that such default will be corrected within 90 Days, SUBCONTRACTOR may, by written notice to CONTRACTOR, if any, terminate in whole or in part this Subcontract. This termination remedy does not limit any other rights or remedies available to SUBCONTRACTOR under this Subcontract.

GC-46 OPTIONAL TERMINATION

46.1 CONTRACTOR may, at its option, terminate for convenience any of the Work under this Subcontract in whole or, from time to time, in part, at any time by written notice to SUBCONTRACTOR. Such notice shall specify the extent to which the performance of the Work is terminated and the effective date of such termination. Upon receipt of such notice SUBCONTRACTOR shall:

(1) Immediately discontinue the Work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts for materials, services, or facilities, other than as may be required for completion of such portion of the Work that is not terminated;

(2) Promptly obtain assignment or cancellation upon terms satisfactory to CONTRACTOR of all purchase orders, subcontracts, rentals, or any other agreements existing for the performance of the terminated work or assign those agreements as directed by CONTRACTOR;

(3) Assist CONTRACTOR in the maintenance, protection, and disposition of work in progress, plant, tools, equipment, property, and materials acquired by SUBCONTRACTOR or furnished by CONTRACTOR under this Subcontract; and

(4) Complete performance of such portion of the Work, which is not terminated.

46.2 Upon any such termination, SUBCONTRACTOR shall waive any claims for damages including loss of anticipated profits; on account thereof, but as the sole right and remedy of SUBCONTRACTOR, CONTRACTOR shall pay in accordance with the following:

(1) The Subcontract price corresponding to the Work performed in accordance with this Subcontract prior to such notice of termination (including changes ultimately determined per this Subcontract);

(2) All reasonable costs for Work thereafter performed as specified in such notice;

(3) Reasonable administrative costs of settling and paying claims arising out of the termination of work under purchase orders or subcontracts;

(4) Reasonable costs incurred in demobilization and the disposition of residual material, plant and equipment; and

(5) A reasonable overhead and profit on items (2) through (4) of this clause.

46.3 SUBCONTRACTOR shall submit within thirty (30) Days after receipt of notice of termination, a written statement setting forth its proposal for an adjustment to the subcontract price to include only the incurred costs described in this clause. CONTRACTOR shall review, analyze, and verify such proposal, and negotiate an equitable adjustment, and the Subcontract shall be modified accordingly.

GC-47 ACCEPTANCE AND COMPLETION

47.1 SUBCONTRACTOR shall complete all the Work so that it shall, in every respect, be complete and ready for RFCD in accordance with the Subcontract Milestones contained in the Special Condition titled COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.

47.2 “Mechanical Completion”

Mechanical Completion is defined as “Ready For Cool Down (RFCD)”, which means that all of the following have occurred: (i) SUBCONTRACTOR has completed all applicable Work, other than punchlist Work, in accordance with the requirements contained in this Subcontract such that each tank is ready for use to receive and dispatch LNG and Natural Gas so that the Cool Down phase can commence; and (ii) SUBCONTRACTOR has delivered to CONTRACTOR a Notice of Mechanical Completion for such tank. Such notice shall not be given and shall not be effective unless all Subcontract requirements have been met or expressly waived in writing, in whole or in part, by CONTRACTOR. Upon receipt of SUBCONTRACTOR’s Notice(s) of Mechanical Completion, CONTRACTOR shall advise SUBCONTRACTOR in writing of any defects or deficiencies to be remedied.

47.3 “Provisional Acceptance”

The Provisional Acceptance Certificate for each tank will be issued only after all requirements for Mechanical Completion have been met and all punchlist items and other obligations of SUBCONTRACTOR required by this Subcontract have been fulfilled. The following requirements, while still required by the scope of Work, need not be completed to obtain Provisional Acceptance for the first and second tanks: thermographic inspection; final unconditional releases of lien; demobilization.

The Provisional Acceptance Certificate for the third tank will be issued only after all requirements for Mechanical Completion have been met, all punchlist items and other obligations of SUBCONTRACTOR, including thermographic inspection; final unconditional releases of lien and demobilization have been completed.

47.4 "Final Acceptance"

Upon the fulfillment of all Provisional Acceptance requirements for all three tanks and the Work as specified in the Subcontract and the expiration of warranties as specified in the General Condition titled WARRANTY / DEFECT CORRECTION PERIOD and fulfillment of all SUBCONTRACTOR obligations related thereto, including correction of any and all defects in the Work and breach of warranty or guarantee, and provided the Provisional Acceptance Certificates have been issued for Work, CONTRACTOR shall issue a Final Acceptance Certificate.

GC-48 PERFORMANCE GUARANTEES

48.1 Without limiting the effect of the General Condition titled WARRANTY, SUBCONTRACTOR specifically warrants to CONTRACTOR that each discrete unit of the Plant and the Plant as a whole shall be tested for and achieve all "Performance Guarantees" as stipulated in Exhibit "D."

48.2 In the event SUBCONTRACTOR fails to achieve one or more of the Performance Guarantees, SUBCONTRACTOR shall:

(1) Investigate at its own cost the cause of the failure to meet the Performance Guarantee(s).

(2) Submit for CONTRACTOR approval, within fifteen (15) Days after completion of the respective test, a proposal for modifications to either SUBCONTRACTOR's operating instructions and conditions, and/or to the physical facilities of the unit or the Plant deemed necessary to fulfill the Performance Guarantee(s). Failure by SUBCONTRACTOR to submit such proposal within the fifteen (15) day period shall entitle CONTRACTOR, at its option, to require SUBCONTRACTOR to pay the Liquidated Damages specified in the Special Condition titled LIQUIDATED DAMAGES.

(3) Carry out, at SUBCONTRACTOR's expense, such modifications proposed by SUBCONTRACTOR and approved by CONTRACTOR.

(4) Reimburse the cost of CONTRACTOR and OWNER personnel required to supervise and inspect the modifications.

(5) After modification of the operating instructions and conditions and/or the physical facilities of the unit or the Plant the respective performance test(s) shall be repeated within seven (7) Days in the presence of SUBCONTRACTOR's, CONTRACTOR's and OWNER's representatives, who shall attend at SUBCONTRACTOR's expense.

(6) The procedure described above shall be repeated until the Performance Guarantee(s) are met. However, following the third performance test(s) or after the expiration of ninety (90) Days from the date CONTRACTOR issued the Notice to Commence Performance Testing, CONTRACTOR may at its sole option require SUBCONTRACTOR to pay the Liquidated Damages specified in the Special Condition titled LIQUIDATED DAMAGES, allow SUBCONTRACTOR to continue the procedure described above, require actual damages if the failure in performance is substantial, or reject acceptance of the Plant or any unit thereof and declare SUBCONTRACTOR to be in breach of the Subcontract.

(7) In the event that no Performance Testing has commenced within ninety (90) Days after the date CONTRACTOR issued the Notice to Commence Performance Testing for reasons attributable to SUBCONTRACTOR, CONTRACTOR may at its option require SUBCONTRACTOR to pay the Liquidated Damages specified in the Special Condition titled LIQUIDATED DAMAGES or extend this period and require SUBCONTRACTOR to continue corrective work until the Performance Testing can take place. If, after another

thirty (30) Days Performance Testing has still not commenced for reasons attributable to SUBCONTRACTOR, SUBCONTRACTOR shall be deemed to be in breach of the Subcontract, and CONTRACTOR may, at its option, notwithstanding other rights under the Subcontract, request actual damages or terminate the Subcontract in accordance with the General Condition titled, TERMINATION FOR DEFAULT or reject acceptance of the Plant.

(8) Notwithstanding the provisions above CONTRACTOR shall, at any time after SUBCONTRACTOR has failed to satisfy any Performance Guarantee(s) after the third respective Performance Test, have the right to take over and make all modifications necessary to bring the unit or the Plant into condition to satisfy the respective Performance Guarantee(s) and CONTRACTOR shall be reimbursed by SUBCONTRACTOR for the cost thereof.

(9) In the event the Plant as a whole has not met the Performance Guarantee(s) and the failure of the Plant or any unit of the Plant is substantial in that the Plant is unable to serve the purpose for which it was intended under this Subcontract or if the parameters shown during the best respective performance test(s) are below the minimum/maximum ranges stipulated in Exhibit “D” CONTRACTOR may, notwithstanding any rights under this Subcontract and notwithstanding SUBCONTRACTOR’s obligation to pay Liquidated damages, exercise its rights to demand actual damages or to terminate this Subcontract in accordance with the General Condition titled, TERMINATION FOR DEFAULT or to reject acceptance of the PLANT.

48.3 In the event the Plant achieves the Performance Guarantees the Plant’s operational performance shall be deemed to have achieved Provisional Acceptance.

GC-49 ENGINEERING AND DESIGN RESPONSIBILITIES OF SUBCONTRACTOR

CONTRACTOR has furnished SUBCONTRACTOR, as a part of this Subcontract, the design criteria, performance specifications, and other data and information necessary to provide the basis upon which SUBCONTRACTOR shall design and engineer the permanent works. SUBCONTRACTOR shall review all such criteria, specifications, data and information and shall promptly notify CONTRACTOR of any errors, omissions, conflicts or discrepancies reasonably apparent upon a review by SUBCONTRACTOR. If errors are not reasonably apparent upon a review by SUBCONTRACTOR, they shall not be the responsibility of SUBCONTRACTOR. The SUBCONTRACTOR’s review shall be performed with generally accepted practices, skill, care, methods, techniques and standards employed by the international LNG industry at the time of the Subcontract Effective Date that are commonly used in prudent engineering to safely design LNG related facilities of similar size and type as the Facility, in accordance with Applicable Law and Applicable Codes and Standards. Apparent errors or omissions in such criteria, specifications, data and information, or the misdescription of work which is necessary to carry out their intent, or which is customarily performed, shall not relieve SUBCONTRACTOR from performing such omitted or misdescribed work, but such work shall be performed by SUBCONTRACTOR as if fully and correctly set forth and described therein. SUBCONTRACTOR shall obtain approval from CONTRACTOR for any deviation from such criteria, specifications, data and information prior to incorporating such deviation in the final design.

GC-50 NON-WAIVER

Failure by CONTRACTOR to insist upon strict performance of any terms or conditions of this Subcontract, or failure or delay to exercise any rights or remedies provided herein or by law, or failure to properly notify SUBCONTRACTOR in the event of breach, or the acceptance of or payment for any goods or services hereunder, or the review or failure to review designs shall not release SUBCONTRACTOR from any of

the warranties or obligations of this Subcontract and shall not be deemed a waiver of any right of CONTRACTOR or OWNER to insist upon strict performance hereof or any of its rights or remedies as to any prior or subsequent default hereunder nor shall any termination of work under this Subcontract by CONTRACTOR operate as a waiver of any of the terms hereof.

GC-51 SEVERABILITY

The provisions of this Subcontract are severable. If any provision shall be determined to be illegal or unenforceable, such determination shall have no effect on any other provision hereof, and the remainder of the Subcontract shall continue in full force and effect so that the purpose and intent of this Subcontract shall still be met and satisfied.

GC-52 SURVIVAL

All terms, conditions and provisions of this Subcontract, which by their nature are independent of the period of performance, shall survive the cancellation, termination, expiration, default or abandonment of this Subcontract.

GC-53 EQUAL EMPLOYMENT OPPORTUNITY

53.1 SUBCONTRACTOR is aware of, and is fully informed of SUBCONTRACTOR's obligations under Executive Order 11246 and, where applicable, shall comply with the requirements of such Order and all orders, rules, and regulations promulgated thereunder unless exempted therefrom.

53.2 Without limitation of the foregoing, SUBCONTRACTOR's attention is directed to 41 Code of Federal Regulations (CFR), Section 60-1.4, and the clause titled "Equal Opportunity Clause" which, by this reference, is incorporated herein.

53.3 SUBCONTRACTOR is aware of and is fully informed of SUBCONTRACTOR's responsibilities under Executive Order No. 11701 "List of Job Openings for Veterans" and, where applicable, shall comply with the requirements of such Order and all orders, rules and regulations promulgated thereunder unless exempted therefrom.

53.4 Without limitation of the foregoing, SUBCONTRACTOR's attention is directed to 41 CFR Section 60-250 et seq. and the clause therein titled "Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era", which by this reference, is incorporated herein.

53.5 SUBCONTRACTOR certifies that segregated facilities, including but not limited to washrooms, work areas and locker rooms, are not and will not be maintained or provided for SUBCONTRACTOR's employees. Where applicable, SUBCONTRACTOR shall obtain a similar certification from any of its sub-tier subcontractors, vendors, or suppliers performing the Work under this Subcontract.

53.6 SUBCONTRACTOR is aware of and is fully informed of SUBCONTRACTOR's responsibilities under the Rehabilitation Act of 1973 and the Americans with Disabilities Act and, where applicable, shall comply with the provisions of each Act and the regulations promulgated thereunder unless exempted therefrom.

53.7 Without limitation of the foregoing, SUBCONTRACTOR's attention is directed to 41 CFR Section 60-741 and the clause therein titled "Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers", which by this reference, is incorporated herein.

GC-54 SMALL, MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

SUBCONTRACTOR shall support CONTRACTOR's and OWNER's policy and commitment to maximizing, where practical, business opportunities for small, minority and women owned business enterprises (as identified in the Glossary appended to these General Conditions) by actively identifying, encouraging and assisting in their participation.

EXHIBIT A

APPENDIX A-1

GLOSSARY

SMALL, MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

Small Business Enterprise (SBE)

A SBE is defined as a business enterprise, including affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualifies under the U.S. Small Business Administration criteria and size standards for small businesses as specifically defined in the Federal Acquisition Regulations (FAR).

Minority Owned Business Enterprise (MBE)

A MBE is defined as a business enterprise at least 51% owned by one or more individuals, as defined below, or in the case of any publicly owned business, at least 51% of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of those individuals.

Minority individuals are defined as African-Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans:

(1) African-Americans are U.S. citizens whose origins are black racial groups in Africa;

(2) Hispanic Americans are U.S. citizens whose origins are in the Spanish or Portuguese cultures of Mexico, Puerto Rico, Cuba, Central and South America, or the Caribbean;

(3) Native Americans are U.S. citizens whose origins are in North America: American Indians, Aleuts, Eskimos and Native Hawaiians;

(4) Asian-Pacific Americans are U.S. citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands, the Northern Mariana Islands, Laos, Cambodia, or Taiwan; and

(5) Asian-Indian Americans are U.S. citizens whose origins are in India, Pakistan, or Bangladesh.

Woman Owned Business Enterprise (WBE)

A WBE is defined as a business enterprise that is at least 51% owned by a woman or women; or in the case of any publicly-owned business, at least 51% of the stock is owned by one or more women, who are U.S. citizens and whose management and daily business operations are controlled by one or more of those individuals.

SBE/MBE/WBE Identification

Those firms identifying themselves as SBE, MBE or WBE shall certify under the written signature of a duly authorized company officer (preferably the officer signing the contract document) that they meet the above requirements.

BECHTEL CORPORATION

SABINE PASS LNG TERMINAL PROJECT

EXHIBIT "B"

ENGINEER, PROCURE AND CONSTRUCT (EPC) SUBCONTRACT

SPECIAL CONDITIONS

TABLE OF CONTENTS

EXHIBIT "B"

EPC SUBCONTRACT SPECIAL CONDITIONS

SC-1 DEFINITIONS

1.1 "SUBCONTRACTOR" means Diamond LNG LLC and Matrix Service, Inc., its authorized representatives, successors, and permitted assigns.

1.2 "CONTRACTOR" means Bechtel Corporation and all of its authorized representatives acting in their professional capacities.

1.3 "OWNER" means Sabine Pass LNG, L.P. and its authorized representatives and successors in interest.

1.4 "Applicable Law" means all laws, statutes, ordinances, orders, decrees, injunctions, licenses, Permits, approvals, rules and regulations, including any conditions thereto, of any Governmental Instrumentality having jurisdiction over all or any portion of the site or the Facility or performance of all or any portion of the Work or the operation of the Facility, or other legislative or administrative action of a Governmental Instrumentality, or a final decree, judgment or order of a court which relates to the performance of Work hereunder.

1.5 "Business Day" means every Day other than a Saturday, a Sunday or a Day that is an official holiday for employees of the federal government of the Unite States of America.

1.6 "Changes in Law" means any amendment, modification, superseding act, deletion, addition or change in or to Applicable Law (excluding changes to tax laws where such taxes are based upon Contractor's income or profits/losses) that occurs and takes effect after the Subcontract Date. A Change in Law shall include any official change in the interpretation or application of Applicable Law (including Applicable Codes and Standards set forth in Applicable Law), *provided that* such change is expressed in writing by the applicable Governmental Instrumentality.

1.7 "CONTRACTOR Group" means (i) CONTRACTOR and its Affiliates and (ii) the respective directors, officers, agents, employees, representatives of each Person specified in clause (i) above.

1.8 "Confidential Information" means one or both of SUBCONTRACTOR's Confidential Information and OWNER's Confidential Information, as the context requires. "Day" means a calendar day.

1.9 "Day" means a calendar day.

1.10 "Defect" or "Defective" means any work or component thereof that is not in conformity with any warranty.

1.11 "Defect Correction Period" means the period commencing upon RFCD for each tank and ending twenty-four (24) months after RFCD of the third tank, with the exception of coatings, which shall end 12 months after RFCD of the third tank.

1.12 "Disclosing Party." means the Party to whom confidentiality obligations are owed by the Receiving Party.

1.13 "Effective Date" means 03 February 2005 as set forth in the Limited Notice to Proceed. .

1.14 "Excessive Monthly Precipitation" means that the total precipitation measured at the Site for the Month that the event in question occurred has exceeded the following selected probability levels for such Month for Weather Station 417174 BPT, Port Arthur AP Beaumont TX, as specified in the National Oceanic and Atmospheric Administration publication titled "Climatography of the U.S. No. 81, Supplement No. 1, Monthly Precipitation Probabilities and Quintiles, 1971-2000.":

(1) For the period from SUBCONTRACTOR's mobilization to the Site until completion of the last Tank pile cap, the selected probability level of 0.6 shall apply; and

(2) For all other periods after SUBCONTRACTOR's mobilization to the Site, the selected probability level of 0.8 shall apply.

The Parties recognize that the assessment as to whether or not total precipitation measured at the Site for a given Month constitutes Excessive Monthly Precipitation can only be made after the end of the Month in question.

1.15 "Facility" means the facilities contemplated for this Project, including the LNG receiving, storage and regasification facilities.

1.16 "FERC" means the Federal Energy Regulatory Commission.

1.17 "FERC Authorization" means the authorization by the FERC granting to OWNER the approvals requested in that certain application filed by OWNER with the FERC on December 22, 2003, in Docket No. CP04-47-000 (as may be amended from time to time) pursuant to Section 3(a) of the Natural Gas Act and the corresponding regulations of the FERC.

1.18 "Final Acceptance" has the meaning given in the General Condition titled ACCEPTANCE AND COMPLETION.

1.19 "Final Conditional Lien and Claim Waiver" means the waiver and release provided to Contractor by Subcontractor, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.9, which shall be in the form of Exhibit "B" Appendix B-10, Form B-10(3).

1.20 "Final Unconditional Lien and Claim Waiver" means the waiver and release provided to CONTRACTOR by SUBCONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.9, which shall be in the form of Exhibit "B" Appendix B-10, Form B-10(4)

1.21 "Force Majeure" means any act or event that (i) prevents or delays the affected Party's performance of its obligations in accordance with the terms of this Subcontract, (ii) is beyond the reasonable control of the affected Party, not due to its fault or negligence and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence. Force Majeure may include catastrophic storms or floods, Excessive Monthly Precipitation, lightning, tornadoes, hurricanes, a named tropical storm, earthquakes and other acts of God, wars, civil disturbances, revolution, acts of public enemy, acts of terrorism, credible threats of terrorism, revolts, insurrections, sabotage, riot, plague, epidemic, commercial embargoes, expropriation or confiscation of the Facility, epidemics, fires, explosions, industrial action or strike (except as excluded below), and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship unless such economic hardship was otherwise caused by Force Majeure; (ii) changes in market conditions unless any such change in market conditions was otherwise caused by Force Majeure; (iii) industrial actions and strikes involving only the employees of CONTRACTOR or any of its subcontractors, except for industrial actions and strikes involving the employees of the Subsubcontractor supplying the nickel steel for the Tanks; or (iv) nonperformance or delay by CONTRACTOR or its subcontractors or sub-tier subcontractors, unless such nonperformance or delay was otherwise caused by Force Majeure.

1.22 "Geotechnical Reports" means the following reports, each prepared by Tolunay-Wong Engineers, Inc. and provided by OWNER to CONTRACTOR prior to the Contract Date: (i) the Geotechnical Investigation, Sabine LNG Terminal, Cryogenic Tanks, Sabine, Louisiana, dated September 12, 2003; (ii) the Final Report, Geotechnical Investigation, Sabine LNG Terminal, Process Area, LNG Pipe Racks, Berth and Construction Docks, Sabine, Louisiana, dated September 19, 2003; and (iii) Geological Hazard Evaluation, Sabine LNG Terminal, Sabine, Louisiana, dated September 19, 2003.

1.23 "Good Engineering and Construction Practices" or "GECP" means the generally accepted practices, skill, care, methods, techniques and standards employed by the international LNG industry at the time of the Contract Date that are commonly used in prudent engineering, procurement and construction to safely design, construct, pre-commission, commission, start-up and test LNG related facilities of similar size and type as the Facility, in accordance with Applicable Law and Applicable Codes and Standards.

1.24 “Governmental Instrumentality” means any federal, state or local department, office, instrumentality, agency, board or commission having jurisdiction over a Party or any portion of the Work, the Facility or the Site.

1.25 “Indemnified Party” means any member of the OWNER Group, CONTRACTOR Group or SUBCONTRACTOR, as the context requires.

1.26 “Indemnifying Party” means OWNER, CONTRACTOR or SUBCONTRACTOR, as the context requires.

1.27 “Interim Conditional Lien Waiver” means the conditional waiver and release provided to OWNER by CONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.2, which shall be in the form of Exhibit “B” Appendix B-10, Form B-10(1).

1.28 “Interim Unconditional Lien Waiver” means the unconditional waiver and release provided to OWNER by CONTRACTOR, Major Subcontractors and Major Subsubcontractors in accordance with the requirements of SC-15.2, which shall be in the form of Exhibit “B” Appendix B-10, Form B-10(2).

1.29 “Landowner” means any landowner that has leased land or provided a right of way or easement to Owner in connection with the Project.

1.30 “Lender” means any entity or entities providing temporary or permanent debt financing to OWNER for the Facility.

1.31 “Major Subcontract” means any Subcontract having an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000)

1.32 “Major Subcontractor” means any subcontractor with whom CONTRACTOR enters, or intends to enter, into a Major Subcontract

1.33 “Major Subsubcontract” means any subcontract that SUBCONTRACTOR enters into with a sub-tier subcontractor having an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000)

1.34 “Major Subsubcontractor” means any sub tier subcontractor that SUBCONTRACTOR enters, or intends to enter into a Major Subsubcontract with.

1.35 “OWNER Group” means (i) OWNER, its parent, Lender, and each of their respective Affiliates and (ii) the respective directors, officers, agents, employees and representatives of each Person specified in clause (i) above.

1.36 “OWNER Permits” means the Permits listed in Exhibit “B” Appendix B-12 and any other Permits (not listed in either Appendix B-12) necessary for performance of the Work or the operation of the Facility and which are required to be obtained in OWNER’s name pursuant to Applicable Law.

1.37 “Permit” means any valid waiver, certificate, approval, consent, license, exemption, variance, franchise, permit, authorization or similar order or authorization from any Governmental Instrumentality required to be obtained or maintained in connection with the Facility, the Site or the Work.

1.38 “Progress Record Drawings and Specifications” means Drawings and Specifications that show all current “as-built” conditions.

1.39 “Project” means the Sabine Pass LNG Terminal including the LNG receiving, storage and regasification facilities to be engineered, procured, constructed, pre-commissioned, commissioned and tested by CONTRACTOR for OWNER located at Sabine Pass for which the Work under this Subcontract is being performed.

1.40 “Provisional Acceptance” has the meaning given in the General Condition titled ACCEPTANCE AND COMPLETION.

1.41 “Ready For Cool Down” or “RFCD” has the meaning given in the General Condition titled ACCEPTANCE AND COMPLETION.

1.42 “Receiving Party” means the Party having confidentiality obligations with respect to such Confidential Information.

1.43 “Site” and “Jobsite” means Sabine Pass, at which location construction activity shall be performed under this Subcontract.

1.44 “Subsubcontract” means any agreement by SUBCONTRACTOR with a Subsubcontractor or by a Subsubcontractor with another Subsubcontractor for the performance of any portion of the Work.

1.45 **“**Subsubcontractor” means any person, including an equipment supplier or vendor, who has a direct contract with SUBCONTRACTOR to manufacture or supply Equipment which is a portion of the Work, to lease Construction Equipment to SUBCONTRACTOR in connection with the Work, or to otherwise perform a portion of the Work.

1.46 “Subsurface Soil Conditions” means subsurface conditions at the Site, including subsurface conditions on the sea bottom of the dredging basin where Work shall be performed.

1.47 “Subcontract Milestone(s)” means the established completion date(s) set forth in the Special Condition titled COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK.

1.48 “Subcontract Schedule” means the Work execution schedule developed and approved pursuant to the Special Condition titled SUBCONTRACT SCHEDULE.

1.49 “Third Party” means any Person other than a member of (i) the CONTRACTOR Group, (ii) the OWNER Group, or (iii) any subcontractor or sub-tier subcontractor or any employee, officer or director of such subcontractor or sub-tier subcontractor.

1.50 “Work” means all the stated or implied activities to be performed by SUBCONTRACTOR as required by the Subcontract Documents.

SC-2 INSURANCE

2.1 Unless otherwise specified in this Subcontract, SUBCONTRACTOR shall, at its sole expense, maintain in effect at all times during the performance of the Work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to CONTRACTOR. SUBCONTRACTOR shall deliver to CONTRACTOR no later than ten (10) calendar days after subcontract award, but in any event prior to commencing the Work or entering the Jobsite, certificates of insurance or policies as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates or policies shall be issued in the form provided by CONTRACTOR or if none is provided in a form acceptable to CONTRACTOR and provide that not less than thirty (30) calendar days advance written notice will be given to CONTRACTOR prior to cancellation, termination or material alteration of said policies of insurance. Certificates shall identify on their face the project name and the applicable subcontract number.

2.2 Standard Coverage

(1) Workers’ Compensation as required by any applicable law or regulation.

If there is an exposure of injury to SUBCONTRACTOR’s employees under the U.S. Longshoremen’s and Harbor Workers’ Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

(2) Employer's Liability of not less than:

- US $1,000,000 each accident;
- US $1,000,000 disease each employee;
- and US $1,000,000 disease policy limit.

(3) Commercial General Liability Insurance

(a) Coverage

SUBCONTRACTOR shall carry Commercial General Liability Insurance covering all operations by or on behalf of SUBCONTRACTOR providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below, subject to a maximum deductible of US $25,000 and including coverage for:

(a.1) Premises and Operations;

(a.2) Products and Completed Operations;

(a.3) Contractual Liability insuring the indemnity agreement in the General Condition titled INDEMNITY;

(a.4) Broad form Property Damage (including Completed Operations);

(a.5) Explosion, Collapse and Underground Hazards; and

(a.6) Personal Injury Liability.

The Commercial General Liability insurance shall be the Occurrence Coverage Form.

(b) Policy Limits

(b.1) For SUBCONTRACTOR's Commercial General Liability Insurance, the limits of liability for bodily injury, property damage, and personal injury shall be not less than:

$5,000,000	Combined single limit for Bodily Injury and Property Damage each occurrence;
$5,000,000	Personal Injury Limit each occurrence;
$10,000,000	Products-Completed Operations Annual Aggregate Limit; and
$10,000,000	General Annual Aggregate Limit with such limits dedicated to the Project

(b.2) If the policy does not have an endorsement providing the General Annual Aggregate limits are as indicated above SUBCONTRACTOR shall provide an endorsement titled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than $10,000,000 and a General Annual Aggregate Limit of not less than

$10,000,000. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(c) "Additional Insureds"

(c.1) CONTRACTOR and OWNER, their subsidiaries and affiliates, and the officers, directors and employees of the foregoing shall be named as Additional Insureds under the Commercial General Liability Insurance policy, but only with respect to liability arising out of the operations for CONTRACTOR and OWNER by or for SUBCONTRACTOR. The United States Insurance Services Office (ISO) form CG 20 10 10 93 or its equivalent shall be attached to the policy. Such insurance shall include an Insurer's waiver of subrogation in favor of the Additional Insureds, be primary as regards any other coverage maintained for or by the Additional Insureds, and shall contain a cross-liability or severability of interest clause.

(c.2) In lieu of naming CONTRACTOR and OWNER as Additional Insureds under the Commercial General Liability policy, SUBCONTRACTOR may, at CONTRACTOR's sole discretion and at CONTRACTOR's cost and not as an option, provide OWNER and CONTRACTOR Protective Liability Insurance. If SUBCONTRACTOR carries OWNER and CONTRACTOR Protective Liability Insurance the policy shall have a combined single limit for Bodily Injury or Property Damage of not less than:

$5,000,000 Each Occurrence and

$10,000,000 Annual Aggregate.

If the policy covers more than one project, this Subcontract (the Work) shall be designated in the Policy Declarations.

The policy shall name CONTRACTOR and OWNER, their officers, directors, and employees, as "Named Insured."

(4) Automobile Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned.

(a) The combined single limit for Bodily Injury and Property Damage Liability shall be not less than $1,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(b) SUBCONTRACTOR's Automobile Liability Insurance shall include coverage for Automobile Contractual Liability and shall be subject to a maximum deductible of US $ 25,000.

(5) SUBCONTRACTOR's Construction Equipment Floater covering all construction equipment and items (whether owned, rented, or borrowed) of SUBCONTRACTOR that will not become part of the facility. It is understood that this coverage shall not be included under the builders risk policy. Notwithstanding anything to the contrary contained herein, SUBCONTRACTOR shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such Construction Equipment. SUBCONTRACTOR shall require all insurance policies (including policies of

SUBCONTRACTOR and Subsubcontractors) in any way relating to such Construction Equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against CONTRACTOR, Owner Group, Lender and OWNER Affiliates.

2.3 Special Operations Coverage

Should any of the Work:

(1) Involve marine operations, SUBCONTRACTOR shall provide or have provided coverage for liabilities arising out of such marine operations, including contractual liability under its Commercial General Liability Insurance or Marine Hull and Machinery Insurance and Protection and Indemnity Insurance. In the event such marine operations involve any SUBCONTRACTOR owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, SUBCONTRACTOR agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be no less than the market value of the vessel. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverages shall include coverage for contractual liability, wreck removal, Tower's liability if applicable; and full collision coverage and shall be endorsed:

(a) To provide full coverage to CONTRACTOR and OWNER and their subsidiaries and affiliates as Additional Insureds without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language that would limit coverage to liability of an insured "as owner of the vessel;" and

(b) To waive any limit to full coverage for the Additional Insureds provided by any applicable liability statute.

All marine insurances provided by SUBCONTRACTOR shall include an Insurer's waiver of subrogation in favor of the Additional Insureds.

(2) Involve the hauling of property in excess of $300,000, SUBCONTRACTOR shall also carry "All Risk" Transit Insurance, or "All Risk" Motor Truck Cargo Insurance, or such similar form of insurance that will insure against physical loss or damage to the property being transported, moved or handled by SUBCONTRACTOR pursuant to the terms of this Subcontract. Such insurance shall provide a limit of not less than the replacement cost of the highest value being moved, shall insure the interest of SUBCONTRACTOR, CONTRACTOR, OWNER, and the subsidiaries and affiliates of CONTRACTOR and OWNER as their respective interests may appear and shall include an insurer's waiver of subrogation rights in favor of each.

(3) Involve aircraft (fixed wing or helicopter) owned, operated or chartered by the SUBCONTRACTOR, liability arising out of such aircraft shall be insured for a combined single limit not less than $10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. Such insurance shall name CONTRACTOR and OWNER and their subsidiaries and affiliates as Additional Insureds, include an Insurer's waiver of subrogation in favor of the Additional Insureds, state that it is primary insurance as regards the Additional Insureds and contain a cross-liability or severability of interest clause. If the aircraft hull is insured such insurance shall provide for an Insurer's waiver of subrogation rights in favor of CONTRACTOR and OWNER and their subsidiaries and affiliates. In the event SUBCONTRACTOR charters aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.

(4) Involve investigation, removal or remedial action concerning the actual or threatened escape of hazardous substances, SUBCONTRACTOR shall also carry Pollution Liability Insurance in an amount not less than $2,000,000 per occurrence/annual aggregate. Such insurance shall provide coverage for both sudden and gradual occurrences arising from the Work performed under this Subcontract. If Completed Operations is limited in the policy, such Completed Operation Coverage shall be for a period of not less than five (5) years. Such insurance shall include a three (3) year extended discovery period and shall name CONTRACTOR and OWNER and their subsidiaries and affiliates as Additional Insureds.

(5) Involve inspection, handling or removal of asbestos, SUBCONTRACTOR shall also carry Asbestos Liability Insurance in an amount not less than $2,000,000 per occurrence/annual aggregate. The policy shall be written on an “Occurrence Basis” with no sunset clause. Such insurance shall name CONTRACTOR and OWNER and their subsidiaries and affiliates as Additional Insureds.

(6) Involve transporting hazardous substances, SUBCONTRACTOR shall also carry Business Automobile Insurance covering liability arising out of the transportation of hazardous materials in an amount not less than $2,000,000 per occurrence. Such policy shall include Motor Carrier Endorsement MCS-90. NEITHER CONTRACTOR NOR OWNER IS TO BE NAMED AN ADDITIONAL INSURED FOR THIS POLICY.

(7) Involve treatment, storage or disposal of hazardous wastes, SUBCONTRACTOR shall furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Environmental Liability Insurance in the amount of not less than $5,000,000 per occurrence/annual aggregate.

2.4 Related Obligations:

(1) The requirements contained herein as to types and limits, as well as CONTRACTOR’s approval of insurance coverage to be maintained by SUBCONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by SUBCONTRACTOR under this Subcontract.

(2) The Certificates of Insurance must provide clear evidence that SUBCONTRACTOR’s Insurance Policies contain the minimum limits of coverage and the special provisions prescribed in this clause.

(3) All insurance required to be obtained by SUBCONTRACTOR pursuant to this Subcontract shall be from an insurer or insurers permitted to conduct business as required by Applicable Law and shall be rated with either an “A-: IX” or better by Best’s Insurance Guide Ratings or “A-” or better by Standard and Poor’s.

(4) The following insurance policies provided by SUBCONTRACTOR shall include CONTRACTOR Group and OWNER Group as Additional Insureds: employer’s liability, commercial automobile, aircraft liability, hull and machinery, and protection and indemnity insurance.

(5) All policies of insurance provided by SUBCONTRACTOR or Subsubcontractor pursuant to this Agreement shall include clauses providing that each underwriter shall waive its rights of recovery, under subrogation or otherwise, against CONTRACTOR Group, OWNER Group and Lender. However, it is agreed and understood that the waiver of subrogation under the Workers’ Compensation and Employer’s Liability insurance shall

only apply in the event that the injured employee or their estate has not filed a direct claim against the CONTRACTOR GROUP, OWNER Group and/or Lender.

(6) The insurance policies of SUBCONTRACTOR and Subsubcontractor shall state that such coverage is primary and non-contributory to any other insurance or self-insurance available to or provided by the CONTRACTOR Group, OWNER Group and/or Lender.

(7) All policies (other than in respect to worker's compensation insurance) shall insure the interests of the CONTRACTOR Group and OWNER Group regardless of any breach or violation by SUBCONTRACTOR or any other Party of warranties, declarations or conditions contained in such policies, any action or inaction of CONTRACTOR, OWNER or others, or any foreclosure relating to the Project or any change in ownership of all or any portion of the Project.

(8) SUBCONTRACTOR shall promptly provide the CONTRACTOR certified copies of each of the insurance policies maintained by the SUBCONTRACTOR, or if the policies have not yet been received by SUBCONTRACTOR, then with binders of insurance, duly executed by the insurance agent, broker or underwriter fully describing the insurance coverages effect.

(9) All insurance policies shall include coverage for jurisdiction within the United States of America or other applicable jurisdiction.

(10) SUBCONTRACTOR and its Subsubcontractors shall do nothing to void or make voidable any of the insurance policies purchased and maintained by CONTRACTOR or SUBCONTRACTOR or Subsubcontractors hereunder. SUBCONTRACTOR shall promptly give CONTRACTOR, OWNER and Lender notice in writing of the occurrence of any casualty, claim, event, circumstance, or occurrence that may give rise to a claim under an insurance policy hereunder and arising out of or relating to the performance of the Work. In addition, SUBCONTRACTOR shall ensure that the CONTRACTOR and OWNER are kept fully informed of any subsequent action and developments concerning the same, and assist in the investigation of any such casualty, claim, event, circumstance or occurrence.

(11) SUBCONTRACTOR's certificate of insurance form, completed by SUBCONTRACTOR's insurance agent, broker or underwriter, shall reflect all of the insurance required by SUBCONTRACTOR, the recognition of additional insured status, waivers of subrogation, and primary/non-contributory insurance requirements contained in this Subcontract.

(12) Prior to the commencement of any Work, the SUBCONTRACTOR shall deliver to CONTRACTOR certificates of insurance reflecting all of the insurance required of SUBCONTRACTOR under this Agreement. All certificates of insurance and associated notices and correspondence concerning such insurance shall be addressed to the contact information listed in the Agreement.

(13) Policy Cancellation and Change: All policies of insurance required to be maintained pursuant to this Agreement shall be endorsed so that if at any time they are canceled, or their coverage is reduced (by any party including the insured) so as to affect the interests of CONTRACTOR, OWNER or Lender, such cancellation or reduction shall not be effective as to CONTRACTOR and OWNER or Lender for sixty (60) Days after receipt by CONTRACTOR, OWNER and Lender of written notice from such insurer of such cancellation or reduction.

(14) Reports: SUBCONTRACTOR will advise CONTRACTOR in writing promptly of (1) any material changes in the coverage or limits provided under any policy required by this

Agreement and (2) any default in the payment of any premium and of any other act or omission on the part of SUBCONTRACTOR which may invalidate or render unenforceable, in whole or in part, any insurance being maintained by the SUBCONTRACTOR pursuant to this Agreement.

(15) Lender Requirements: SUBCONTRACTOR agrees to cooperate with CONTRACTOR and as to any changes in or additions to the foregoing insurance provisions made necessary by requirements imposed by Lender (including additional insured status, notice of cancellation, certificates of insurance.

(16) SUBCONTRACTOR shall provide evidence, reasonably satisfactory to CONTRACTOR, evidencing insurance to cover the risk of loss for materials and Goods while in SUBCONTRACTOR's facilities.

2.5 CONTRACTOR Furnished Insurance:

CONTRACTOR shall provide the following insurances:

(1) Builder's Risk Insurance: Property damage insurance on an "all risk" basis insuring CONTRACTOR, SUBCONTRACTOR, OWNER and Lender, as their interests may appear, including coverage against loss or damage from the perils of startup and testing.

(a) Sum Insured: The insurance policy shall (i) be on a completed value form, with no periodic reporting requirements, (ii) insure one hundred percent (100%) of the Facility's insurable values, and (iii) value losses at replacement cost, without deduction for physical depreciation or obsolesce including custom duties, Taxes and fees.

	Category of Builders Risk	Deductible
(i)	Windstorm & Flood	2% of values at risk at time of loss subject to a minimum of US$ 1,000,000 each and every loss and a maximum of US $5,000,000 each and every loss
(ii)	Other natural perils	US$ 500,000 each and every loss
(iii)	Loss or damage to Wet Works (defined as works in on or over river or tidal waters)	US$ 1,000,000 each and every loss
(iv)	Loss of or damage arising from commissioning/testing and tank fill and LEG 3/96	US$ 500,000 each and every loss
(v)	All other losses	US$ 100,000 each and every loss

2.6 Notifications:

In accordance with the submittal requirements outlined above, SUBCONTRACTOR shall deliver the original and two (2) copies of the Certificate(s) of Insurance or individual insurance policies required by this clause and all subsequent notices of cancellation, termination and alteration of such policies to:

Bechtel Corporation
3000 Post Oak Blvd
Houston, TX 77056

Attention:	Sabine Pass LNG Project, Bechtel Subcontract Manager
Reference:	Subcontract No. 25027-HC1-MTD0-00002
Subcontract Title:	LNG Tanks

SC-3 CONTRACTOR-FURNISHED DRAWINGS AND SPECIFICATIONS

3.1 CONTRACTOR will furnish design criteria specifications and prints of engineering design criteria drawings for each part of the Work under this Subcontract. Such drawings will give information required for the preparation of detail design and/or shop detail drawings by SUBCONTRACTOR.

3.2 SUBCONTRACTOR shall, immediately upon receipt thereof, review all specifications and drawings furnished and shall promptly notify CONTRACTOR of any reasonably apparent omissions or discrepancies in such specifications or drawings. The SUBCONTRACTOR's review shall be performed with generally accepted practices, skill, care, methods, techniques and standards employed by the international LNG industry at the time of the Subcontract Effective Date that are commonly used in prudent engineering to safely design LNG related facilities of similar size and type as the Facility, in accordance with Applicable Law and Applicable Codes and Standards. Apparent errors or omissions in such criteria, specifications, data and information, or the misdescription of work which is necessary to carry out their intent, or which is customarily performed, shall not relieve SUBCONTRACTOR from performing such omitted or misdescribed work, but such work shall be performed by SUBCONTRACTOR as if fully and correctly set forth and described therein. SUBCONTRACTOR shall obtain approval from CONTRACTOR for any deviation from such criteria, specifications, data and information prior to incorporating such deviation in the final design.

3.3 SUBCONTRACTOR shall perform Jobsite work only in accordance with "Issued for Construction" (IFC) drawings and any subsequent revisions thereto submitted by SUBCONTRACTOR and reviewed by CONTRACTOR in accordance with the Special Condition titled SUBCONTRACTOR-FURNISHED DRAWINGS, DATA AND SAMPLES.

3.4 Two (2) copies of such specifications and one (1) full size reproducible copy and three (3) full size prints of such drawings will be furnished to SUBCONTRACTOR without charge. Any additional copies of such specifications and drawings will, upon SUBCONTRACTOR's request, be furnished to SUBCONTRACTOR at actual cost.

SC-4 CONTRACTOR-FURNISHED UTILITIES AND FACILITIES

4.1 Utilities

The utilities listed below will be furnished by CONTRACTOR without cost to SUBCONTRACTOR, provided that all such utilities will be furnished at outlets existing on the Jobsite and SUBCONTRACTOR shall, at its expense, extend such utilities from said outlets to points of use and at completion of all the Work remove all materials and equipment used for such extensions.

(1) telephone line cabling with drop at pole

(2) electrical power: none

(3) hydrotest water: in accordance with API 620 Appendix Q

4.2 Facilities (Refer to drawing no. P1K-5C-00002 in Exhibit “E”)

The Facilities listed below will be furnished by CONTRACTOR. Such Facilities may be used by SUBCONTRACTOR without charge, provided that any such use will be subject to written approval of CONTRACTOR.

(1) construction dock, including offloading dock crane, with crane operator

(2) access roads in accordance with Exhibit “D”

(3) construction storage / laydown area in accordance with Exhibit “D”

(4) parking lot in accordance with Exhibit “D”

(5) office trailer area

SC-5 CONTRACTOR-FURNISHED MATERIALS AND EQUIPMENT

5.1 CONTRACTOR will furnish to SUBCONTRACTOR, at CONTRACTOR’s designated warehouse or Jobsite storage area, the items listed below to be incorporated into or used in performance of the Work under this Subcontract. Such items will be furnished, without cost to SUBCONTRACTOR, provided that SUBCONTRACTOR shall, at its expense, accept delivery thereof, load, unload, transport to points of use, and care for such items until final disposition thereof. At time of acceptance of any such item from CONTRACTOR, SUBCONTRACTOR shall sign a receipt therefore. Signing of such receipt without reservation therein shall preclude any subsequent claim by SUBCONTRACTOR that any such items were received from CONTRACTOR in a damaged condition and with shortages. If at any time after acceptance of any such item from CONTRACTOR any such item is damaged, lost, stolen or destroyed, such item shall be repaired or replaced at the expense of SUBCONTRACTOR. Items required to be replaced may, at its option, be furnished by CONTRACTOR. Upon completion of all the Work under this Subcontract, SUBCONTRACTOR shall, at its expense, return all surplus and unused items to CONTRACTOR’s designated warehouse or Jobsite storage area.

5.2 CONTRACTOR will exert every reasonable effort to make delivery of such materials and equipment so as to avoid delay in the progress of the Work. However, should CONTRACTOR, for any reason, fail to make delivery of any such item and a delay result the provisions of the General Condition titled CHANGES apply. SUBCONTRACTOR shall take all appropriate action to mitigate the consequences of such delay.

5.3 Materials to be furnished by CONTRACTOR:

As Stated In Exhibit “D”

SC-6 CONTRACTOR-FURNISHED PERMITS

6.1 The General Condition titled PERMITS notwithstanding, CONTRACTOR will without cost to SUBCONTRACTOR, furnish the permits listed below; however, SUBCONTRACTOR shall, as necessary, provide CONTRACTOR and OWNER with assistance in obtaining such permits. SUBCONTRACTOR shall otherwise act in accordance with said General Condition titled PERMITS. All such CONTRACTOR-furnished permits are available for examination at the project office of CONTRACTOR during regular business hours.

6.2 Permits to be furnished by CONTRACTOR:

See Appendix B-12 to the Exhibit “B” Special Conditions

SC-7 SUBCONTRACTOR-FURNISHED DRAWINGS, SPECIFICATIONS, DATA AND SAMPLES

7.1 Review and permission to proceed by CONTRACTOR as stated in this Special Condition does not constitute acceptance or approval of the materials and documents developed or selected by SUBCONTRACTOR and any approval by CONTRACTOR shall only constitute permission to proceed and shall not relieve the CONTRACTOR from its obligations under the Subcontract nor shall such approval create any CONTRACTOR or OWNER responsibility for the accuracy of such materials and documents. The drawings and specifications shall be based on the requirements of this Agreement, including the Scope of Work, drawings, specifications, Applicable Codes and Standards and Applicable Law and all drawings and specifications shall be signed and stamped, as required, by design professionals licensed in accordance with Applicable Law.

7.2 Those drawings and record drawings specified in this Subcontract and prepared by SUBCONTRACTOR or Subsubcontractor under this Subcontract shall be prepared using computer aided design (“CAD”). SUBCONTRACTOR shall provide drawings, including record drawings, in their native formats as set forth in Exhibit “D”.

7.3 In accordance with the General Condition titled RIGHT TO WORK TOOLS AND WORK PRODUCT, CONTRACTOR and/or OWNER shall have the right to use all materials and documents developed by SUBCONTRACTOR without any obligation of any kind to SUBCONTRACTOR or its suppliers, subcontractors, or licensor(s) for the purpose of the construction, training, operation, maintenance, repair, revision or addition to the Plant except as otherwise agreed in any License Agreements executed between OWNER and said Licensor(s).

7.4 CONTRACTOR’s design, drawings, specifications, samples, certificates and data shall be submitted as set forth below or in accordance with the subcontract “Drawings and Data Requirements” form(s).

(1) Drawing Submittals

(a) All drawings shall be submitted by and at the expense of SUBCONTRACTOR before each design phase, fabrication, installation or further work performance is commenced, allowing at least fourteen (14) Days for critical items and thirty (30) Days for non-critical drawings for review by CONTRACTOR.

(b) All drawings submitted by SUBCONTRACTOR shall be certified by SUBCONTRACTOR to be correct, shall show the subcontract number and shall be furnished in accordance with the Subcontract Drawings and Data Requirements form(s). CONTRACTOR will conduct a review of SUBCONTRACTOR’s drawings and a reproducible drawing marked with one of the following codes will be returned to SUBCONTRACTOR within fourteen (14) Days for critical drawings and thirty (30) Days for non-critical drawings.

Code	Notation
1.	Work may proceed.
2.	Revise and Resubmit. Work may proceed subject to resolution of indicated comments.
3.	Revise and Resubmit. Work may not proceed.
4.	Review not required. Work may proceed.

(c) Although work may proceed on receipt of a drawing with a Code 2 notation, SUBCONTRACTOR must resolve the comments indicated, resubmit and obtain a Code 1 notation before release for further design development, equipment or material shipment, installation, or completion of the affected work.

(d) Drawings returned marked code 2 or 3 shall be resubmitted not later than fifteen (15) Days after transmittal by CONTRACTOR. CONTRACTOR must return a copy of the drawings endorsed with the appropriate code within fourteen (14) Days for critical drawings and thirty (30) Days for non-critical drawings.

(2) Design, Drawings and Specifications

(a) SUBCONTRACTOR shall prepare its design, drawings, and specifications using the technical documents of Exhibit “D” and the drawings of Exhibit “E” as a basis. Construction will not commence until SUBCONTRACTOR has obtained from CONTRACTOR review and approval of those drawings, which show the construction proposed by SUBCONTRACTOR.

(b) SUBCONTRACTOR shall complete its design in phases as indicated in the Subcontract Schedule submitted in accordance with the Special Condition titled SUBCONTRACT SCHEDULE. The information submitted for each phase of the design must contain sufficient detail on the other phases to permit comprehensive review of the proposed design.

(c) When required by CONTRACTOR, SUBCONTRACTOR shall, without charge, provide qualified technical personnel to participate in on-site design reviews.

(d) CONTRACTOR will review the design as it is completed and shall transmit comments to the SUBCONTRACTOR. SUBCONTRACTOR shall promptly resolve these comments and resubmit the documents. On resubmittal, SUBCONTRACTOR shall direct specific attention, in writing, to revisions other than those proposed by CONTRACTOR on the previous submittal.

(e) When the drawings and specifications have been satisfactorily completed, SUBCONTRACTOR shall carry out fabrication, manufacture or construction in accordance therewith and shall make no further changes therein except upon review by and written approval from CONTRACTOR.

(f) Design drawings shall be submitted as specified in paragraph 7.4(1) above.

(3) Construction Drawings

(a) SUBCONTRACTOR shall prepare complete construction drawings necessary to execute the Work and shall be fully responsible for the coordination of all

elements of the detail design such as civil, architectural, structural, electrical, and mechanical, etc. so that full details are shown on its construction drawings to permit SUBCONTRACTOR to order its equipment and materials and for its field forces to construct the facilities covered in the Subcontract. The SUBCONTRACTOR shall also provide design calculations when requested.

(b) For the purpose of this clause, construction drawings shall include those prepared for the construction of permanent facilities as well as temporary structures such as temporary bulkheads, excavation support, ground water control systems, and for such other temporary work as may be required for construction.

(c) Construction drawings shall be submitted as specified in paragraph 7.4(1) above.

(4) Shop Drawings

(a) Shop drawings shall be complete and detailed. For the purpose of this clause, shop drawings shall include but not be limited to detail design; detail, fabrication, assembly, erection and setting drawings; schedule drawings; manufacturer's scale drawings; wiring and control diagrams; cuts or entire catalogs, pamphlets, and descriptive literature; and performance and test data.

(b) Shop drawings shall be checked and coordinated by the SUBCONTRACTOR with the work of all disciplines involved before they are submitted to CONTRACTOR and SUBCONTRACTOR's approval seal shall provide evidence of such checking and coordination.

(c) Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing number clearly indicated. If reference drawing numbers are used, the review data of such drawings shall be included. Drawings shall indicate design dimensions, maximum and minimum allowable operating tolerances on all major wear fits, i.e., rotating, reciprocating or intermittent sliding fits between shafts or stems and seals, guides and pivot pins. The sequence of submission of all drawings shall be such that all information is available for reviewing each drawing when it is received.

(d) Shop drawings shall be submitted as specified in paragraph 7.4(1) above.

(5) Samples

(a) Where samples are required, they shall be submitted by and at the expense of SUBCONTRACTOR. Such submittals shall be made not less than thirty (30) calendar days prior to the time that the materials represented by such samples are needed for incorporation into the Work. Samples shall be subject to review and materials represented by such samples shall not be manufactured, delivered to the Jobsite or incorporated into the Work without such review.

(b) Each sample shall bear a label showing SUBCONTRACTOR's name, Project name, subcontract number, name of the item, manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing number, technical specification section and paragraph number, all as applicable.

(c) Samples, which have been reviewed, may, at CONTRACTOR's option, be returned to SUBCONTRACTOR for incorporation into the Work.

(6) Certificates and Data

(a) Where certificates are required, four (4) copies of each such certificate shall be submitted by and at the expense of SUBCONTRACTOR. Such submittal shall be made not less than thirty (30) calendar days prior to the time that the materials represented by such certificates are needed for incorporation into the Work. Certificates shall be subject to review and material represented by such certificates shall not be fabricated, delivered to the Jobsite or incorporated into the Work without such review.

(b) Certificates shall clearly identify the material being certified and shall include but not be limited to providing the following information: SUBCONTRACTOR's name, Project name, subcontract number, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section and paragraph number, all as applicable.

(c) All other data shall be submitted as required by the Subcontract Documents.

(7) SUBCONTRACTOR Furnished Manuals and Spare Parts Lists

The SUBCONTRACTOR shall prepare and submit to the OWNER Operating Manuals and Spare Parts Lists in accordance with the requirements of Exhibit "D."

(8) As-Built Drawings and Specifications

(a) Drawings:

(a1) Progress As-Builts. During construction, SUBCONTRACTOR shall keep a marked-up-to-date set of as-built blueline drawings on the Jobsite as an accurate record of all deviations between work as shown and work as installed. These drawings shall be available to CONTRACTOR and OWNER for inspection at any time during regular business hours.

(a2) Final As-Builts. SUBCONTRACTOR shall at its expense and not later than thirty (30) calendar days after Mechanical Completion furnish to CONTRACTOR a complete set of marked-up as-built reproducible drawings with "AS-BUILT" clearly printed on each sheet. SUBCONTRACTOR shall accurately and neatly transfer all deviations from progress as-builts to final as-builts. As-built drawings shall be provided where specified and as required to reflect as-built conditions.

(b) Specifications:

(b1) Progress As-Builts. During construction, SUBCONTRACTOR shall keep a marked-up-to-date set of as-built specifications on the Jobsite annotated to clearly indicate all substitutions that are incorporated into the Work. Where selection of more than one product is specified, annotation shall show which product was installed. These specifications shall be available to CONTRACTOR and OWNER for inspection at any time during regular business hours.

(b2) Final As-Builts. SUBCONTRACTOR shall at its expense and not later than thirty (30) calendar days after Mechanical Completion furnish to CONTRACTOR a complete set of marked-up as-built specifications with "AS-BUILT" clearly printed on the cover. SUBCONTRACTOR shall accurately and neatly transfer all annotations from progress as-builts to final as-builts.

(c) Endorsement:

SUBCONTRACTOR shall sign each final as-built drawing and the cover of the as-built specifications and shall note thereon that the recording of deviations and annotations is complete and accurate.

SC-8 COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK

8.1 SUBCONTRACTOR shall complete the Work under the Subcontract to meet the following Subcontract Milestone dates:

Subcontract Milestone	Date
Execute Subcontract	06 May 2005
Start Test Piling	15 July 2005
Start Production Piling	01 Dec 2005
RFCD First Tank	18 Feb 2008
RFCD Second Tank	23 Mar 2008
RFCD Third Tank	27 Apr 2008

8.2 SUBCONTRACTOR shall give CONTRACTOR full information in advance as to its plans for performing each part of the Work. If at any time, SUBCONTRACTOR's actual progress is inadequate to meet the requirements of this Subcontract, CONTRACTOR may notify SUBCONTRACTOR to provide a plan necessary to improve its progress. If, within a reasonable period as determined by CONTRACTOR, SUBCONTRACTOR does not improve performance to meet the Subcontract Milestones set forth above, CONTRACTOR may require an increase in SUBCONTRACTOR's labor force, the number of shifts, overtime operations, additional days of work per week, expedited shipment(s) of equipment and materials, and an increase in the amount of construction plant and equipment, all without additional cost to CONTRACTOR. Neither such notice nor CONTRACTOR's failure to issue such notice shall relieve SUBCONTRACTOR of its obligation to achieve the quality of work and rate of progress required by this Subcontract.

8.3 Noncompliance with CONTRACTOR's instructions shall be grounds for CONTRACTOR's determination that SUBCONTRACTOR is not prosecuting the Work with such diligence as will assure completion within the times specified. Upon such determination, CONTRACTOR may terminate this Subcontract pursuant to the General Condition titled TERMINATION FOR DEFAULT.

SC-9 SUBCONTRACT SCHEDULE

SUBCONTRACTOR shall, within thirty (30) calendar days of subcontract execution and before the first progress payment is made, submit to CONTRACTOR for its written approval a Subcontract Schedule. The schedule shall consist of a precedence network diagram using the critical path method (CPM) to show each individual essential activity in sequence to meet the Subcontract Milestones of the Special Condition titled "COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK." The diagram shall show durations and dependencies including off-Jobsite activities such as design, fabrication of equipment, procurement, delivery of materials, and items to be furnished by CONTRACTOR. It shall show total float and free-float times. Float shall not be considered to be for the exclusive benefit of either CONTRACTOR or SUBCONTRACTOR. Extensions of time for performance required under other subcontract clauses shall be made only to the extent that equitable time adjustments for affected activities exceed the total float available along their paths.

Subcontractor shall utilize Primavera (P3) software to produce schedules and shall adhere to the Work Breakdown Structure, activity code structure and calendars utilized by CONTRACTOR.

The activity listing shall show the following information for each activity on the diagram:

Identification by node number;
Description of the task or event;
Duration;
Personnel by craft;
Equipment;
Earliest start and finish dates; and
Latest start and finish dates.

In addition SUBCONTRACTOR shall submit a complementary and detailed narrative description of its plan for performing the Work. The narrative description shall summarize detail the equipment and personnel requirements by craft to complete a resource loaded schedule.

SUBCONTRACTOR shall promptly inform CONTRACTOR of any proposed change in the schedule and narrative and shall furnish CONTRACTOR with a revised schedule and narrative within ten (10) calendar days after approval by CONTRACTOR of such change. The schedule and narrative shall be kept up to date, taking into account the actual work progress and shall be revised, if necessary, every thirty (30) calendar days. The revised schedule and narrative shall, as determined by CONTRACTOR, be sufficient to meet the requirements for completion of any separable part and all of the Work as set forth in this subcontract.

During the performance of the Work, SUBCONTRACTOR shall submit to CONTRACTOR periodic reports on the actual progress. Such progress reports shall include the following:

1. Monthly — A copy of the Subcontract Schedule showing actual progress to date for the major parts of the Work, as compared to planned progress;
2. Monthly — SUBCONTRACTOR will submit a summary of actual hours expended performing the Work. Jobhours will be categorized by Non-Manual and Manual and will be utilized to publish safety statistics. Manual are craft labor including foremen (e.g. pipe fitters, welders, electricians, laborers, carpenters, ironworkers) whereas Non-Manual are non-craft labor (e.g. field engineers, superintendents, safety representatives, accountants)
3. Monthly — A jobhour comparison by craft of actual versus planned staffing;
4. Weekly — A three-week look-ahead personnel forecast by craft. Variation from approved schedules and plans shall be noted and rationalized;
5. Weekly — A rolling four-week schedule showing one week actual progress and a three-week look-ahead forecast. Variation from approved schedules and plans shall be noted and rationalized;
6. Weekly — A weekly report of quantities installed versus total quantities on items of the Work selected by CONTRACTOR;

7. Weekly — A weekly report of labor productivity comparing actual versus planned jobhours on items of the Work selected by CONTRACTOR. Variation from approved schedules and plans shall be noted and rationalized;

8. Daily — A daily force report listing all personnel by craft and work assignment; and equipment utilized in the Work

Schedules and reports shall be furnished in hardcopy and/or electronic files as specified by CONTRACTOR.

SC-10 TEMPORARY ACCESS AND HAUL ROADS

10.1 SUBCONTRACTOR shall, at its expense, construct and maintain temporary access and haul roads, except as provided in the Special Condition titled CONTRACTOR-FURNISHED UTILITIES AND FACILITIES, as may be necessary for the proper performance of this Subcontract. SUBCONTRACTOR shall submit a layout of all proposed roads prior to road construction. The layout shall show widths of roads, direction of traffic, curves, grades and related information in sufficient detail for review by CONTRACTOR. Roads constructed on OWNER'S land or rights-of-way shall be subject to OWNER'S approval.

10.2 CONTRACTOR and SUBCONTRACTOR shall provide reasonable notice of any request for access to the Site by (i) any of CONTRACTOR's or OWNER's other contractors or subcontractors seeking to perform work at the Site or (ii) any Landowner. SUBCONTRACTOR agrees to use reasonable efforts to accommodate such request and CONTRACTOR agrees to coordinate the performance of the Work with such other contractors or subcontractors performing work at the Jobsite so as not to materially interfere with any of OWNER's or CONTRACTOR's other contractors or subcontractors performing work at the Jobsite.

SC-11 SAFETY, HEALTH AND SECURITY REQUIREMENTS

11.1 In the development and implementation of its Safety and Health Plan (S&H Plan) and performance of the Work, SUBCONTRACTOR shall conform and comply with CONTRACTOR's SAFETY AND HEALTH (S&H) STANDARDS set forth in Exhibit "B " Appendix B-2.

11.2 SUBCONTRACTOR shall not, without prior written approval of CONTRACTOR, subcontract with any entity whose safety ratings for the previous year exceed the following:

Interstate EMR:	1.0
State EMR:	1.0
LWDC:	2.5
OSHA Recordable:	3.5

11.3 In performance of the Work under this Subcontract, SUBCONTRACTOR shall establish and maintain a security program, implementing and supplementing Project security requirements. This shall include a written Security Plan which shall be submitted to CONTRACTOR for review and approval within ninety (90) Days after subcontract award and in any event prior to commencing work at the Jobsite. Such program shall include:

(1) Controlled access to office, warehouse, material and equipment sites.

(2) Physical security of office, warehouse, material and equipment sites, to include periodic security checks of all work areas assigned to SUBCONTRACTOR.

(3) Control of material and equipment packaging, transportation, and delivery to the Jobsite.

(4) Accountability procedures for storage, requisition and issue of material and equipment.

(5) Personnel security to include, but not limited to, compliance with Project work rules (access, badging, prohibited activities and items, etc.)

(6) Communications security to include, but not limited to, use of radios, radio finders, beacons, etc.

(7) Compliance with the Project Emergency Response Plan to include, but not limited to, emergency notification lists, personnel accountability procedures, etc.

(8) Compliance with all Project security programs and the coordination measures, with CONTRACTOR, OWNER and others on the Jobsite, established for that purpose.

(9) Prompt reporting of incidents of loss, theft or vandalism to CONTRACTOR, subsequently detailed and provided in writing.

SUBCONTRACTOR's Security Plan shall be added as an appendix to its Project S&H Plan.

SC-12 EXPLOSIVES

Explosives shall be transported to the Jobsite only when required to perform the Work under this Subcontract and with prior notice to and written approval of CONTRACTOR. SUBCONTRACTOR shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work. SUBCONTRACTOR shall employ competent and qualified personnel for the use of explosives and, notwithstanding any other provision in the Subcontract to the contrary, shall assume full responsibilities for the cost of any incidental or consequential damages caused by the improper use of explosives. Residual surplus explosives shall be promptly removed from the Jobsite and properly disposed of by SUBCONTRACTOR.

SC-13 WARRANTY BOND

13.1 Upon completion of RFCD for the third tank and as precedent to payment of any Retainage, SUBCONTRACTOR shall, at no cost to CONTRACTOR, furnish a Warranty Bond. The Warranty Bond shall be in the amount of five per cent (5%) of the final Subcontract price. At SUBCONTRACTOR's option, the payment of Retainage and provision of the Warranty Bond may be stepped to reflect separate completion of RFCD of each tank.

13.2 Such securities shall be issued in a form and by a Surety acceptable to CONTRACTOR.

SC-14 MEASUREMENT FOR PAYMENT

14.1 To establish a basis for payment against lump sum items set forth in Exhibit C, SUBCONTRACTOR shall, within thirty (30) calendar days after Subcontract award, provide a lump sum breakdown (Schedule of Values) which proposes:

(1) A reasonable number of measurable interim tasks required to accomplish each lump sum item, and

(2) An allocation of the price to each task with reasonable relationship to the costs incurred in its accomplishment.

14.2 CONTRACTOR shall review SUBCONTRACTOR's Schedule of Values, determine the appropriate tasks and values for progress payments and so advise SUBCONTRACTOR in writing.

14.3 SUBCONTRACTOR shall then provide a schedule of the monthly progress payments (Estimated Payment Schedule) required to perform the Work in accordance with the Subcontract Schedule approved pursuant to the Special Condition titled SUBCONTRACT SCHEDULE. The Estimated Payment Schedule shall apply either the Schedule of Values, a reasonable estimate of progress on tasks represented by unit prices, or a combination thereof.

14.4 Written monthly estimates shall be prepared by SUBCONTRACTOR for CONTRACTOR's approval covering the amount and value of work satisfactorily performed by SUBCONTRACTOR up to the date of such estimate and projected out to the end of the invoiced period. Such estimate may be made by strict measurement, or by estimate, or partly by one method and partly by the other.

14.5 SUBCONTRACTOR shall make all surveys necessary for determining all quantities of work to be paid under this Subcontract. Copies of field notes, computations and other records made by SUBCONTRACTOR for the purpose of determining quantities shall be furnished to CONTRACTOR upon request. SUBCONTRACTOR shall notify CONTRACTOR prior to the time such surveys are made. CONTRACTOR, at its sole discretion, may witness and verify such surveys. Measurements and computations shall be made by such methods as CONTRACTOR may consider appropriate for the class of work measured and the estimate of quantities of work completed shall be compatible with the reporting requirements of the Special Condition titled SUBCONTRACT SCHEDULE. The dividing limits, lines or planes between adjacent items or classes of excavation, concrete, or other types of work where not definitely indicated on the drawings or in the specifications shall be as determined by CONTRACTOR.

14.6 CONTRACTOR shall review SUBCONTRACTOR's monthly estimate and return an approved copy to SUBCONTRACTOR. Pursuant to the Special Condition titled INVOICING AND PAYMENT, SUBCONTRACTOR shall prepare and submit to CONTRACTOR invoices in accordance with the approved monthly estimates.

SC-15 INVOICING AND PAYMENT

15.1 SUBCONTRACTOR shall prepare and submit invoices as follows:

(1) SUBCONTRACTOR shall submit an application for payment by the 1st day of the calendar month for the Work projected to be completed through that month and shall include adjustments to reflect actual Work performed in the previous month; and

(2) CONTRACTOR shall review the application for payment and return a marked-up copy by the 5th of the calendar month.

(3) Utilizing the agreed application for payment, SUBCONTRACTOR shall develop and submit an invoice.

SUBCONTRACTOR shall certify in each invoice that there are no known outstanding mechanic's or material-men's liens, and that all due and payable bills have been paid or are included in the application for payment.

15.2 As a condition of payment, each Invoice received by CONTRACTOR prior to Final Acceptance shall be accompanied by a fully executed (i) Interim Conditional Lien Waiver from SUBCONTRACTOR in the form of Exhibit "B" Appendix B-10 Form B-10-1 for all Work performed through the date of the Invoice for which payment is requested and (ii) Interim Unconditional Lien Waiver from SUBCONTRACTOR in the form of Exhibit "B" Appendix B-10 Form B-10-2 for all Work performed and invoiced during the month, two months prior to the current month being invoiced, submitted by SUBCONTRACTOR. In addition, as a condition of payment, SUBCONTRACTOR shall also provide (i) fully executed Interim Conditional Lien Waivers in the form of Exhibit "B" Appendix B-10 Form B-10-1 from each Major Subsubcontractor whose invoice is received by SUBCONTRACTOR in the Month covered by SUBCONTRACTOR's Invoice (with each such Interim Conditional Lien Waiver covering all Work performed by each such Major Subsubcontractor through the date of such Major Subsubcontractor's invoice), together with fully executed Interim Unconditional Lien Waivers from each Major Subsubcontractor for all Work performed by such Major Subsubcontractor through the date of each such Major Subsubcontractor's preceding invoice; (ii) fully executed Interim Conditional Lien Waivers in substantially the form of Exhibit "B" Appendix B-10 Form B-10-1 from each Major Subsubcontractor whose invoice is received by SUBCONTRACTOR in the Month covered by SUBCONTRACTOR's Invoice (with each such Interim Conditional Lien Waiver covering all Work performed by each such Major Subsubcontractor through the date of such Major Subsubcontractor's invoice), together with fully executed Interim Unconditional Lien Waivers from each Major Subsubcontractor in substantially the form set forth in Exhibit "B" Appendix B-10 Form B-10-2 for all Work performed by such Major Subsubcontractor through the date of each such Major Subsubcontractor's preceding invoice; provided that if SUBCONTRACTOR fails to provide to CONTRACTOR an Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver from a Major Subsubcontractor as required, CONTRACTOR's right to withhold payment for the failure to provide any such Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver shall be limited to the amount that should have been reflected in such Interim Conditional Lien Waiver or Interim Unconditional Lien Waiver.

15.3 SUBCONTRACTOR hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by SUBCONTRACTOR against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender, whether such lien in favor of Lender is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subsubcontractors to similarly subordinate their lien, claim and encumbrance rights. SUBCONTRACTOR agrees to comply with reasonable requests of CONTRACTOR/OWNER for supporting documentation required by Lender in connection with such subordination, including any necessary lien subordination agreements. Nothing in this Article shall be construed as a limitation on or waiver by SUBCONTRACTOR of any of its rights under Applicable Law to file a lien or claim or otherwise encumber the Facility as security for any undisputed payments owed to it by CONTRACTOR hereunder which are past due; *provided that* such lien, claim or encumbrance shall be subordinate to any liens granted in favor of Lenders.

15.4 Within Thirty (30) calendar days after receipt of a correct invoice, CONTRACTOR will pay SUBCONTRACTOR ninety percent (90%) of the approved invoice amount retaining the balance ("Retainage") pending RFCD of the third tank. At SUBCONTRACTOR's option, the payment of Retainage may be stepped to reflect separate completion of RFCD of each tank. The stepped payment of Retainage is subject to CONTRACTOR's receipt of a warranty bond, acceptable to CONTRACTOR, in accordance with the requirements of SC-13, WARRANTY BOND and SC-15.10 below.

15.5 Amounts otherwise payable under this Subcontract may be withheld, in whole or in part, if:

(1) SUBCONTRACTOR is in material default of any Subcontract condition including, but not limited to, the schedule, quality assurance and health and safety requirements; or

(2) SUBCONTRACTOR has not submitted:

(a) Schedules as defined in the Special Condition titled “SUBCONTRACT SCHEDULE,”

(b) Proper insurance certificates, or not provided proper coverage or proof thereof, and

(c) CONTRACTOR approved securities;

(d) Interim Lien Waivers from SUBCONTRACTOR and Major Subsubcontractors

(3) Adjustments are due from previous overpayment or audit results

15.6 CONTRACTOR will make payments of such amounts withheld in accordance with SC-15.5 above if SUBCONTRACTOR cures all defaults in the performance of this Subcontract.

15.7 If claims filed against SUBCONTRACTOR connected with performance under this Subcontract, for which CONTRACTOR may be held liable if unpaid (e.g., unpaid withholding and back taxes), are not promptly removed by SUBCONTRACTOR within seven (7) Days after receipt of written notice from CONTRACTOR to do so, CONTRACTOR may remove such claims and deduct all costs in connection with such removal from withheld payments or other monies due, or which may become due, to SUBCONTRACTOR. If the amount of such withheld payment or other monies due SUBCONTRACTOR under this Subcontract is insufficient to meet such costs, or if any claim against SUBCONTRACTOR is discharged by CONTRACTOR after final payment is made, SUBCONTRACTOR and its surety or sureties, if any, shall promptly pay CONTRACTOR all costs incurred thereby regardless of when such claim arose or whether such claim imposed a lien upon the Project or the real property upon which the Project is situated.

In the event a lien is filed, SUBCONTRACTOR shall remove the lien, or see that it is removed or shall furnish a bond for the full amount thereof within seven (7) calendar days of notice by CONTRACTOR or as otherwise specified by applicable law. Upon SUBCONTRACTOR’s failure to promptly comply with the foregoing requirements CONTRACTOR may remove such liens. SUBCONTRACTOR shall reimburse CONTRACTOR for all costs in connection with the removal of such liens and CONTRACTOR may deduct such costs from payments or other monies due, or which may become due, to SUBCONTRACTOR.

15.8 Upon receipt by SUBCONTRACTOR of CONTRACTOR’s Provisional Acceptance Certificate for the third tank under this Subcontract, SUBCONTRACTOR shall prepare and submit its final invoice in accordance with the approved estimate. The final invoice shall be exclusive of release of Retainage, in accordance with SC-15.4.

15.9 SUBCONTRACTOR shall, in addition to any other requirements in this Subcontract for achieving Provisional Acceptance, submit a fully executed final Invoice, along with (i) a statement summarizing and reconciling all previous Invoices, payments and Change Orders; (ii) an affidavit that all payrolls, taxes, bills for material and equipment, and any other indebtedness connected with the Work for which SUBCONTRACTOR and its Subsubcontractors are liable (excluding Corrective Work) have been paid; (iii) fully executed Final Conditional Lien and Claim Waiver from SUBCONTRACTOR in the form of Exhibit “B” Appendix B-10 Form B-10-3, (iv) fully executed Final Conditional Lien and Claim Waivers from each Major Subsubcontractor in the form set forth in Exhibit “B” Appendix B-10 Form B-10-1. No later than thirty (30) Days after receipt by CONTRACTOR of such final Invoice and all reasonably requested documentation and achieving Provisional Acceptance of the third tank, CONTRACTOR shall, subject to its rights to withhold payment under this Subcontract, pay SUBCONTRACTOR the balance of the Subcontract price, provided that SUBCONTRACTOR provides to CONTRACTOR at or before the time of such payment the following: (i) fully executed Final Unconditional Lien and Claim Waiver

from SUBCONTRACTOR for amounts paid and (ii) fully executed Final Unconditional Lien and Claim Waivers from each Major Subsubcontractor. Notwithstanding the above, CONTRACTOR shall not withhold from final payment an amount greater than the amount(s) in dispute.

15.10 The Retainage shall be reduced from ten percent (10%) to five percent (5%) upon RFCD incrementally with respect to each tank in accordance with SC-15.4; provided, however, upon delivery of a warranty bond acceptable to CONTRACTOR, such five percent (5%) Retainage shall be paid to SUBCONTRACTOR incrementally with respect to each tank. The warranty bond shall remain in effect until expiration of the warranties provided under the General Condition titled WARRANTY / DEFECT CORRECTION PERIOD.

15.11 Unless otherwise specified by applicable law, CONTRACTOR shall, within sixty (60) calendar days following Final Acceptance of the Work and after submittal of an invoice or a written request for release of the warranty bond, pay to SUBCONTRACTOR the amount then remaining due including the Retainage account, or release the warranty bond, provided that, SUBCONTRACTOR shall have furnished CONTRACTOR and OWNER for itself, its lower tier subcontractors, immediate and remote, and all material suppliers, vendors, laborers and other parties acting through or under it, waivers and releases of all claims against CONTRACTOR or OWNER arising under or by virtue of this Subcontract, except such claims, if any, as may with the consent of CONTRACTOR and OWNER be specifically excepted by SUBCONTRACTOR from the operation of the release in stated amounts to be set forth therein.

15.12 No payments of invoices or portions thereof shall at any time constitute approval or acceptance of any work under this Subcontract, nor be considered a waiver by CONTRACTOR or OWNER of any of the terms of this Subcontract. However, title to all equipment and materials which has vested in CONTRACTOR or OWNER pursuant to the Special Condition titled TITLE AND RISK OF LOSS shall not be part of SUBCONTRACTOR's property or estate, unless otherwise specified by applicable law, in the event SUBCONTRACTOR is adjudged bankrupt or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of SUBCONTRACTOR's insolvency, or if all or any portion of this Subcontract is terminated.

SUBCONTRACTOR shall submit all invoices in original to:

Bechtel Corporation
P.O. Box 7700
Glendale, Arizona 85312-7700

Attention:	Sabine Pass LNG Project
Reference:	Subcontract No. 25027-HC1-MTD0-00002
Subcontract Title:	LNG Tanks

SUBCONTRACTOR shall submit all invoices in copy to:

Bechtel Corporation
3000 Post Oak Blvd
Houston, TX 77056

Attention:	Sabine Pass LNG Project Bechtel Subcontracts Manager
Reference:	Subcontract No. 25027-HC1-MTD0-00002
Subcontract Title:	LNG Tanks

SC-16 PRICING OF ADJUSTMENTS

16.1 When pricing is a factor in any determination of a subcontract adjustment pursuant to the General Conditions titled CHANGES or DISPUTES, SUBCONTRACTOR shall propose upward or downward price adjustments in one of the following methods, as directed by CONTRACTOR;

(1) Estimated Lump Sum Price

When SUBCONTRACTOR is directed to provide a lump sum price adjustment, it shall provide cost breakdown information for the purpose of and in sufficient detail to permit analysis and negotiation including but not limited to engineering, fabrication, labor categories, labor hours, equipment hours and material quantities and other supporting data upon which the lump sum is.

(2) Time and Material Rates

(a) Labor

The labor rates set forth in Exhibit “C” Form A-2, shall be applied to CONTRACTOR approved expenditures of man-hours for engineering, support craft and manual labor for all classifications through lead engineer, foreman or equivalent for the period of performance of the change. Unless otherwise identified in 2(b), (c), (d) or (e) below, the labor rates are all inclusive hourly rates and include but are not limited to all costs for payroll, burdens and benefits, subsistence, additives, taxes, insurance premiums, paid absences, social and retirement benefits, small tools (with a value of $500 or less), consumables, temporary facilities, utilities, overhead, general and administrative and profit. General supervision and management above lead engineer or foreman or equivalent and indirect labor, e.g., surveyors, office personnel, timekeepers, warehousemen and maintenance personnel are not separately reimbursable and are included as an allowance within the hourly rates. Labor timesheets shall be submitted by SUBCONTRACTOR and approved by CONTRACTOR on a daily basis. Timesheets shall be in sufficient detail to identify the change order, activities performed, the labor categories and applicable labor rate and hours expended. Failure by SUBCONTRACTOR to have the timesheets approved by CONTRACTOR on a daily basis shall be grounds for rejection.

(b) SUBCONTRACTOR Owned Equipment

The Equipment Rates set forth in Exhibit “C”, Form B, shall be applied to approved hours for SUBCONTRACTOR Owned Equipment having original purchase prices of more than $500 each. The equipment hourly rates are all inclusive. The rates include but are not limited to all costs for mobilization, demobilization, maintenance, fuel, oil, grease and other consumables. The rates exclude the cost of an operator. An operator, if required, shall be approved and paid in accordance with the requirements of 2(a) above. In the event a piece of SUBCONTRACTOR Owned Equipment is required to perform a Change but is not available on site, a mobilization and demobilization charge may be separately agreed by CONTRACTOR in advance of the equipment mobilization date. Equipment timesheets shall be submitted by SUBCONTRACTOR and approved by CONTRACTOR on a daily basis. Timesheets shall be in sufficient detail to identify the equipment, model, and activities performed, the applicable rate and hours expended. Failure by SUBCONTRACTOR to have the timesheets approved by CONTRACTOR on a daily basis shall be grounds for rejection.

(c) Rental Equipment

With prior approval of CONTRACTOR, SUBCONTRACTOR shall be reimbursed for the rental of third party construction equipment having original purchase prices of more than $500 each, and vehicle net rental costs (exclusive of sales and use tax) plus ten percent (10%) for

Reasonable equipment charges for approved SUBCONTRACTOR rented construction equipment having original purchase prices of more than $500 each shall be allowed, provided such charges are:

(1) Not greater than eighty percent (80%) of Primedia Information Inc. Blue Book daily rental rates applicable for the period of performance of the change; and

(2) Appropriately discounted to stand-by rates for idle time reasonably required.

(3) When the operated use of equipment is infrequent and, as determined by CONTRACTOR, such equipment need not remain at the site continuously, charges shall be limited to actual hours of use. Equipment not operating but retained at the location of changes at CONTRACTOR's direction shall be charged at the standby rate.

(4) For the cost of rented equipment to be allowable, CONTRACTOR must agree in writing, prior to their being used, that the individual pieces of equipment are needed, are appropriate for the Work, and that the mobilization and demobilization costs are allocable to the change and acceptable. This is in addition to the daily end-of-day approval of operating time for such equipment.

(d) Materials

Approved incurred costs for material incorporated into the changed Work or required for temporary construction facilities made necessary by the change shall be allowable at net cost (exclusive of sales and use taxes) delivered to the site plus ten percent (10%) overhead and profit for SUBCONTRACTOR.

(e) Subsubcontracts

Approved incurred costs for lower-tier subcontracted tasks shall be allowable plus ten percent (10%) overhead and profit for SUBCONTRACTOR for changes resulting in a Subcontract price adjustment, including this percentage markup, of less than $250,000, or will pay five percent (5%) for changes resulting in adjustments of $250,000 or more; provided that CONTRACTOR has approved the Subsubcontract pursuant to the General Condition titled ASSIGNMENTS AND SUBCONTRACTS before any work is performed.

(3) Cost Reimbursable Basis

If for any reason CONTRACTOR and SUBCONTRACTOR are unable to agree upon a lump sum or Time and Material Subcontract price adjustment the following provisions, which establish and define allowable costs and rates for Force Account work, shall also define allowable costs and rates for a determination by CONTRACTOR. Subcontractor shall establish separate cost accounting records, subject to daily end-of-the-day written approval by CONTRACTOR of all allocable costs on a Force Account basis.

Reimbursement of reasonable and approved incurred costs, plus specified rates for overhead and profit, as defined below, shall be the basis for Force Account adjustment of the Subcontract price.

(a) Direct Labor

Incurred direct labor wages for project management, indirect, technical, craft and manual labor for all classifications of personnel directly working on the change including subsistance, payroll additives, taxes, insurance premiums, paid absences, and social and retirement benefits required by law, labor agreements, published company policies applying uniformly to SUBCONTRACTOR'S work force or which are normal and customary. CONTRACTOR will also pay an amount equal to ten percent (18%) of total direct labor as described above for small tools, consumables, overhead and profit.

CONTRACTOR shall approve timesheets on a daily basis. Timesheets shall be in sufficient detail to identify the change order, activities performed, the labor categories and applicable labor rate and hours expended. CONTRACTOR shall have access to SUBCONTRACTOR's certified payroll records for verification of labor costs.

(b) Equipment

Approved incurred construction equipment, facilities and vehicle net rental costs (exclusive of taxes) plus ten percent (10%) for SUBCONTRACTOR overhead and profit are allowable. Small tools and equipment having original purchase prices of less than $500 each, are deemed to be covered in the overhead and profit rates established by this clause. If operating costs such as fuel oil and grease, are not included in rental rates they are also allowable.

(i) Reasonable equipment charges for approved SUBCONTRACTOR owned construction equipment having original purchase prices of more than $500 each shall also be allowed, provided such charges are:

(i1) Agreed upon Subcontract unit rates; or

(i2) Based upon calculated values allocating ownership costs over the useful life of the equipment plus operating costs such as fuel, oil, lubricants, and maintenance and a profit of ten percent (10%) on such costs; or

(i3) Not greater than eighty percent (80%) of Primedia Information Inc. Blue Book daily rental rates applicable for the period of performance of the change; and

(i4) Appropriately discounted to stand-by rates for idle time reasonably required.

(ii) When the operated use of equipment is infrequent and, as determined by CONTRACTOR, such equipment need not remain at the work site continuously, charges shall be limited to actual hours of use. Equipment not operating but retained at the location of changes at CONTRACTOR's direction shall be charged at the standby rate.

(iii) For the cost of both rented and owned equipment to be allowable, CONTRACTOR must agree in writing, prior to their being used, that the individual pieces of equipment are needed, are appropriate for the work,

and that the mobilization and demobilization costs are allocable to the change and acceptable. This is in addition to the daily end-of-day approval of operating time for such equipment.

(c) Materials

Approved incurred costs for material incorporated into the changed Work or required for temporary construction facilities made necessary by the change shall be allowable at net cost (exclusive of sales ans use tax) delivered to the Jobsite plus ten percent (10%) overhead and profit for SUBCONTRACTOR.

(d) Subsubcontracts

Approved incurred costs for lower-tier subcontracted tasks shall be allowable plus ten percent (10%) overhead and profit for SUBCONTRACTOR for changes resulting in a Subcontract price adjustment, including this percentage markup, of less than $250,000, or will pay five percent (5%) for changes resulting in adjustments of $250,000 or more; provided that CONTRACTOR has approved the Subsubcontract pursuant to the General Condition titled ASSIGNMENTS AND SUBCONTRACTS before any work is performed.

SC-17 COMPONENT WARRANTIES

In addition to the General Condition titled WARRANTY, SUBCONTRACTOR shall obtain or provide, for the benefit of CONTRACTOR and OWNER and their successors in interest, warranties or guarantees for the equipment, materials and Work furnished by suppliers and subcontractors of any tier. Such warranties or guarantees are to run for the period set forth in the applicable specification of this Subcontract or, when not specified, that period customarily provided by the supplier. SUBCONTRACTOR shall use its best efforts to enforce such warranties or guarantees of any tier on its own behalf or, if requested by CONTRACTOR or OWNER, on behalf of CONTRACTOR or OWNER. SUBCONTRACTOR shall provide warranty documentation by Provisional Acceptance or as otherwise required by this Subcontract.

SC-18 QUALITY SURVEILLANCE INSPECTIONS

CONTRACTOR designated equipment or materials furnished by SUBCONTRACTOR shall not be deemed accepted until inspected by CONTRACTOR’s or OWNER’s representative in accordance with Appendix B-1 GENERAL REQUIREMENTS FOR SUBCONTRACTOR QUALITY SYSTEMS

SC-19 TRAINING PROGRAM

To provide trained operation and maintenance (O&M) personnel for OWNER’S O&M program, SUBCONTRACTOR shall support CONTRACTOR in the development and implementation of a program for training of OWNER nominated trainees in operating and maintaining the Plant and systems/subsystems constructed and installed under this Subcontract. Upon completion of the training program, the training aids, tools, test equipment, training manuals and other materials specific to the program shall be transferred to OWNER and CONTRACTOR may make video recordings of all training sessions for OWNER’S use.

SC-20 LIQUIDATED DAMAGES

20.1 The parties hereby agree that the damages which CONTRACTOR will sustain as a result of SUBCONTRACTOR’s failure to meet key Subcontract Milestones are difficult or impossible to

determine with certainty and, therefore, have in good faith estimated as fair compensation the liquidated damages as set forth below. If SUBCONTRACTOR fails to deliver the equipment or materials or perform the services within the time frames specified in the Subcontract for the Subcontract Milestones listed below, or any extensions evidenced by a Change Notice/Order or duly executed subcontract Amendment, the SUBCONTRACTOR shall pay to CONTRACTOR as fixed, agreed and liquidated damages for each calendar day of delay the sum(s) specified below, which amounts shall be independently calculated for each Subcontract Milestone indicated:

SABINE PASS LIQUIDATED DAMAGES

MILESTON DESCRIPTION	MILESTONE DATE	LIQUIDATED DAMAGE AMOUNT PER CALENDAR DAY
RFCD First Tank	18 Feb 2008	US$ 50,000 per day for Days 1-75 after RFCD US$100,000 per Day after Day 75 after RFCD
RFCD Second Tank	23 Mar 2008	US$ 50,000 per day for Days 1-75 after RFCD US$100,000 per Day after Day 75 after RFCD
RFCD Third Tank	27 April 2008	US$ 50,000 per day for Days 1-75 after RFCD US$100,000 per Day after Day 75 after RFCD

20.2 The application of liquidated damages shall not effect a change in the Subcontract Milestones or relieve SUBCONTRACTOR of its obligation to improve its progress, pursuant to the Special Condition titled COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK, and to achieve or mitigate the failure to achieve any Subcontract Milestone.

20.3 Payments of liquidated damages shall become due immediately upon failure to achieve a Subcontract Milestone. CONTRACTOR shall be entitled to withhold from payments due, offset against other obligations, deduct from Retainage, and draw down on letter(s) of credit or performance securities any and all liquidated damages due from SUBCONTRACTOR.

20.4 The cumulative total of all liquidated damages will not exceed ten percent (10%) of the total Subcontract price.

20.5 Except as set out in the Special Condition titled COMMENCMENT, PROGRESS AND COMPLETION OF THE WORK, where CONTRACTOR may require SUBCONTRACTOR to accelerate to recover lost schedule and the General Condition titled TERMINATION FOR DEFAULT, SUBCONTRACTOR shall have no further liability to CONTRACTOR for delay as a result of the Liquidated Damages provided within this clause.

SC-21 APPLICABLE LAW

This Subcontract shall be governed by and interpreted under the laws of the State of Texas (without giving effect to the principles thereof relating to conflicts of law). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Subcontract and shall be disclaimed in and excluded from any Subcontracts entered into by SUBCONTRACTOR in connection with the Work or the Project.

SC-22 NOT USED

SC-23 RELEASE OF CONSEQUENTIAL DAMAGES

To the maximum extent permitted by applicable law and except to the extent expressly provided in any other provisions of this Subcontract, neither party shall be liable to the other for consequential loss or damages resulting from or arising out of this Subcontract.

SC-24 NOT USED

SC-25 MEASUREMENT SYSTEM

SUBCONTRACTOR shall use the “English Standard” system of measurement for all designs, specifications, drawings, plans and work except as otherwise directed in writing by CONTRACTOR.

SC-26 NOT USED

SC-27 KEY PERSONNEL

SUBCONTRACTOR shall not reassign or remove the key personnel listed below without the prior written authorization of CONTRACTOR.

Name	Title/Position
Tom Shelley	Project Coordinator
Yoshiro Umehara	Project Manager
Brad Rinehart	Project Manager
Yogesh Meher	Design / Engineering Manager
Hiroshi Harada	Design / Engineering Manager
TBD	Site Manager
TBD	Safety Manager (At Site)
TBD	Quality Manager (At Site)

SUBCONTRACTOR shall ensure that Key Personnel continue to perform the part of the Work assigned to them for as long as necessary to achieve the Subcontract requirements. SUBCONTRACTOR shall not remove any Key Personnel from the Work without prior written approval of CONTRACTOR. SUBCONTRACTOR shall allow a minimum of twenty-one (21) Days notice of its desire to remove and Key Personnel from the Subcontract Work.

SC-28 LANGUAGE REQUIREMENTS

The Subcontract Documents and all notices, communications and submittals between the parties pursuant to the implementation of this Subcontract shall be in the English language, unless otherwise directed in writing by CONTRACTOR. All translation services, to include the physical presence of qualified translators in both office and field, necessary for written or oral communications with CONTRACTOR and all members of SUBCONTRACTOR’s work force or in the course of routine Jobsite coordination of any nature, shall be provided by SUBCONTRACTOR. SUBCONTRACTOR warrants these services and their staffing shall fully meet the standards and requirements established by CONTRACTOR.

SC-29 NOT USED

SC-30 DRUGS, ALCOHOL AND WEAPONS

30.1 SUBCONTRACTOR's personnel shall not bring onto the Jobsite, or any other location where the provisions of this Subcontract apply:

(1) Any firearm of whatsoever nature, knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of CONTRACTOR is determined to be a potential weapon.

(2) Alcoholic beverages of any nature.

(3) Illegal or CONTRACTOR or OWNER prohibited non-prescription drugs of any nature without exception.

30.2 SUBCONTRACTOR shall abide by and enforce the requirements of this clause to include the immediate removal from the Work under this Subcontract of any employee who has violated the requirements of this clause or who CONTRACTOR, in its sole judgment, determines has violated the requirements of this clause.

30.3 SUBCONTRACTOR shall be subject to the Project's drug and alcohol policy. Pre-employment drug and alcohol screening shall be required of all SUBCONTRACTOR's employees. All SUBCONTRACTOR's employees shall be subject to random drug and alchohol testing.

SC-31 ARBITRATION

Any arbitration held under this Agreement shall be held in Houston, Texas, unless otherwise agreed by the Parties, shall be administered by the Dallas, Texas office of the American Arbitration Association ("AAA") and shall, except as otherwise modified by this Article SC-31, be governed by the AAA's Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Construction Disputes) (the "AAA Rules"). The number of arbitrators required for the arbitration hearing shall be determined in accordance with the AAA Rules. The arbitrator(s) shall determine the rights and obligations of the Parties according to the substantive law of the state of Texas, excluding its conflict of law principles, as would a court for the state of Texas; provided, however, the law applicable to the validity of the arbitration clause, the conduct of the arbitration, including resort to a court for provisional remedies, the enforcement of any award and any other question of arbitration law or procedure shall be the Federal Arbitration Act, 9 U.S.C.A. § 2. Issues concerning the arbitrability of a matter in dispute shall be decided by a court with proper jurisdiction. The Parties shall be entitled to engage in reasonable discovery, including the right to production of relevant and material documents by the opposing Party and the right to take depositions reasonably limited in number, time and place; provided that in no event shall any Party be entitled to refuse to produce relevant and non-privileged documents or copies thereof requested by the other Party within the time limit set and to the extent required by order of the arbitrator(s). All disputes regarding discovery shall be promptly resolved by the arbitrator(s). This agreement to arbitrate is binding upon the Parties, SUBCONTRACTOR's surety (if any) and the successors and permitted assigns of any of them. At either Party's option, any other Person may be joined as an additional party to any arbitration conducted under this Article SC-31, *provided that* the party to be joined is or may be liable to either Party in connection with all or any part of any dispute between the Parties. The arbitration award shall be final and binding, in writing, signed by all arbitrators, and shall state the reasons upon which the award thereof is based. The Parties agree that judgment on the arbitration award may be entered by any court having jurisdiction thereof.

SC-32 NOT USED

SC-33 NOT USED

SC-34 HAZARDOUS MATERIALS

34.1 SUBCONTRACTOR shall not, nor shall it permit or allow any Subsubcontractor to, bring any hazardous materials on the site and shall bear all responsibility and liability for such materials; *provided, however*, that SUBCONTRACTOR may bring onto the Site such hazardous materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Codes and Standards, and the HSE Plan, and SUBCONTRACTOR shall remain responsible and liable for all such hazardous materials.

34.2 If SUBCONTRACTOR or any Subsubcontractor encounter pre-existing hazardous materials at the Site, and SUBCONTRACTOR or any Subsubcontractor knows or suspects that such material is Hazardous Material, SUBCONTRACTOR and its Subsubcontractors shall promptly stop Work in the affected area and notify CONTRACTOR. If under such circumstances SUBCONTRACTOR or any of its Subsubcontractors fail to stop Work and notify, SUBCONTRACTOR shall be responsible and liable to CONTRACTOR and OWNER for all damages, costs, losses and expenses to the extent attributable to such failure.

34.3 OWNER shall remove, transport and, as appropriate, dispose of any hazardous materials discovered or released at the Site, including any hazardous materials brought on the Site or generated by Third Parties, but excluding any hazardous materials brought on to the Site or generated by SUBCONTRACTOR or any of its Subsubcontractors. In addition, as betweenOWNER, CONTRACTOR and SUBCONTRATOR, OWNER shall be responsible for any hazardous materials discovered or released within the Off-Site Rights of Way and Easements, including any Hazardous Materials brought on the Off-Site Rights of Way and Easements or generated by Third Parties but excluding any Hazardous Materials brought on the Off-Site Rights of Way and Easements by CONTRACTOR or any of its subcontractors or sub-tier subcontractors.

SC-35 HAZARDOUS SUBSTANCE AWARENESS

35.1 The nature of the Work to be performed under this Subcontract involves inherent risks. SUBCONTRACTOR agrees that it will inform its officers, employees, agents, suppliers and subcontractors of any tier, and any other parties which may come into contact with any hazardous substance as a result of SUBCONTRACTOR’s activities hereunder of the nature of such materials and any health or environmental risks associated with such materials.

35.2 SUBCONTRACTOR warrants that SUBCONTRACTOR’s personnel and personnel of its suppliers and subcontractors of any tier, assigned to or regularly entering the Jobsite, have or will receive training as specified in OSHA 29 CFR 1910.120 (e) in relation to this Subcontract prior to their assignment to field duty. Supervisory personnel of any tier will also receive, as a minimum, eight hours additional specialized training in the management of hazardous waste operations. Such training shall be at SUBCONTRACTOR’s expense. SUBCONTRACTOR personnel assigned to the Jobsite may also be required to attend specialized training classes specific to the Jobsite as presented by CONTRACTOR and/or OWNER.

SC-36 HAZARDOUS SUBSTANCE REGULATIONS

SUBCONTRACTOR shall ensure that all hazardous substances with which it deals receive safe and proper handling. SUBCONTRACTOR confirms that it is aware of and will comply with the requirements of the Comprehensive Environmental Response, Compensation, Liability Act, 42 U.S.C. 9601-9675 (CERCLA) as amended; the Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992 (RCRA) as

amended; the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601-2671; the Clean Water Act (CWA), 33 U.S.C. 1251-1387; Title 40 of the Code of Federal Regulations; the Department of Transportation (DOT) regulations applicable to hazardous substances, and any other federal, state and local laws applicable to work with or near hazardous substances.

SC-37 NOT USED

SC-38 LABORATORY ANALYSES

When chemical, radiological or physical analyses of hazardous materials, which are the responsibility of SUBCONTRACTOR, are required for their disposal, treatment, or recycling, and such analyses are not listed below as CONTRACTOR provided, SUBCONTRACTOR shall cause such analyses to be performed by an appropriately qualified laboratory. SUBCONTRACTOR shall identify the analyses to be performed and submit the name, qualifications, and procedures of the proposed laboratory(ies) to CONTRACTOR for review prior to performing any analyses. Such analyses shall be at SUBCONTRACTOR's expense. The following laboratory analyses will be provided by CONTRACTOR:

NONE

SC-39 ON-SITE HANDLING AND DISPOSAL OF HAZARDOUS MATERIAL

If the Work under this Subcontract includes any intrusive site or structural drilling, boring, coring or sampling, debris may be produced as a result of these efforts. This debris could include solids or liquids drawn from site wells for sampling purposes. All such debris shall be treated by the SUBCONTRACTOR as if it were hazardous waste regulated under the federal Resource and Conservation Recovery Act of 1976, 42 U.S.C. 6901-6992 (RCRA) as amended, or any more stringent applicable regulations, unless and until the SUBCONTRACTOR has been able to confirm, to the satisfaction of CONTRACTOR and the appropriate regulatory agencies that the wastes are not regulated as hazardous.

SC-40 OFF-SITE TRANSPORTATION AND DISPOSAL OF HAZARDOUS MATERIALS

SUBCONTRACTOR shall have no authority or responsibility for the off-site transportation, storage, treatment or disposal of contaminated or potentially contaminated waste materials of any kind, which are directly or indirectly generated at the Jobsite. However, SUBCONTRACTOR shall handle all materials at the Jobsite with due care, in accordance with work or Jobsite plans and the requirements of this Subcontract.

SC-41 OFFSITE ACCESS AND JOINT USE OF RIGHT OF WAYS AND EASEMENTS

41.1 SUBCONTRACTOR agrees and acknowledges that it is sufficiently familiar with the Site and the Off-Site Rights of Way and Easements (Reference Exhibit "B" Appendix "SITE AND OFF-SITE RIGHTS OF WAY AND EASEMENTS) to perform the Work in accordance with the Project Schedule, and understands the climate, terrain, logistics, and other difficulties that it may encounter in performing the Work in accordance with the Project Schedule.

41.2 CONTRACTOR shall provide SUBCONTRACTOR with reasonable prior notice of access to the off-Site rights of way and easements by (i) any of CONTRACTOR's or OWNER's other contractors or subcontractors seeking to perform work within such off-Site rights of way and easements (ii) any Landowner. Likewise, SUBCONTRACTOR shall provide CONTRACTOR with reasonable prior notice of any access to the off-Site rights of way and easements by

SUBCONTRACTOR or any of its Subsubcontractors. SUBCONTRACTOR acknowledges that CONTRACTOR or OWNER's other contractors or subcontractors may be working within the off-Site rights of way and easements and that other Persons (including any Landowner) may be on or using the off-Site rights of way and easements during the performance of this Subcontract and SUBCONTRACTOR's Work or use of certain facilities may be interfered with as a result of such concurrent activities. SUBCONTRACTOR agrees to use reasonable efforts to accommodate such requests and CONTRACTOR agrees to coordinate the performance of the Work with such other contractors or subcontractors performing work within the off-Site rights of way and easements so as not to materially interfere with any of SUBCONTRACTOR's or OWNER's other contractors or subcontractors performing work within the off-Site rights of way and easements; provided, however, SUBCONTRACTOR shall in all cases coordinate the Work with any Persons (other than CONTRACTOR, OWNER or their other contractors or subcontractors on or using the off-Site rights of way and easements, and SUBCONTRACTOR shall adhere to the reasonable instructions provided by CONTRACTOR, OWNER or the applicable Landowner(s) in connection with Work performed within such off-Site rights of way and easements.

41.3 SUBCONTRACTOR shall plan and conduct its operations so that neither SUBCONTRACTOR nor any of its Subsubcontractors shall (i) enter upon lands (other than the Site and off-Site rights of way and easements) or waterbodies in their natural state unless authorized by the appropriate owner or entity; (ii) close or obstruct any utility installation, highway, waterway, harbor, road or other property unless Permits are obtained and authorized by the appropriate entity or authority; or (iii) disrupt or otherwise interfere with the operation of any portion of any pipeline, telephone, conduit or electric transmission line, ditch, navigational aid, dock or structure unless otherwise specifically authorized by the appropriate entity or authority. The foregoing includes damage arising from performance of the Work through operation of Construction Equipment or stockpiling of materials.

SC-42 SUBCONTRACTOR REGISTRATION AND STATE TAX INCENTIVE PROGRAM

42.1 OWNER will seek state sales tax exemption for the construction project at Sabine Pass, Louisiana. As a claimant for these exemptions, Louisiana has requested that OWNER make a good faith effort to use Louisiana contractors, subcontractors and labor, except where not reasonably possible to do so without added expense or substantial inconvenience or sacrifice in operational efficiency all other factors being equal (Title 13 ECONOMIC DEVELOPMENT, Part 1, Chapter 5, Section 501A and Chapter 7, Section 703A).

42.2 Non-resident SUBCONTRACTOR and its sub-tier contractors at all tiers must register for sales and use tax purposes with the Louisiana Department of Revenue and the Cameron Parish School Board. Prior to commencing work non-resident SUBCONTRACTOR and its sub-tier contractors at all tiers shall post a bond in an amount sufficient to cover all taxes due on this subcontract. [La. R.S. §47:306(D)(1) and Reg. §61:I.4373.] The required forms may be obtained from the Secretary of the Louisiana Department of Revenue. Upon satisfactory completion of the tax registration and surety bond requirements, SUBCONTRACTOR shall obtain from the Secretary a certificate of compliance and shall provide a copy to CONTRACTOR.

42.3 SUBCONTRACTOR and its sub-tier contractors at all tiers will be required to file a copy of all invoices containing Louisiana State Sales Tax related to the Sabine Pass LNG Terminal Project with the CONTRACTOR. SUBCONTRACTOR shall provide to CONTRACTOR Schedule Sheet C and/or Schedule Sheet CA (as per Exhibit "B" Appendix B-14), which will summarize each invoice as appropriate.

The information required by this clause, unless otherwise stated, must be submitted to CONTRACTOR with or prior to final billing.

SC-43 LOUISIANA SALES AND USE TAXES

43.1 OWNER shall participate in the Louisiana Enterprise Zone Program, which shall allow OWNER to receive a rebate directly from the State of Louisiana Department of Revenue of the rebatable portion of Louisiana state, parish and local-option sales and use tax ("Louisiana Sales and Use Tax") incurred and paid by CONTRACTOR and its subcontractors or sub-tier subcontractors in connection with performance of the Work. SUBCONTRACTOR shall provide to CONTRACTOR and OWNER, for itself and its Subsubcontractors, all documentation as may be reasonably requested by OWNER or CONTRACTOR on behalf of OWNER and available to SUBCONTRACTOR and its Subsubcontractors in order to allow OWNER to secure such rebate. Such documentation shall include invoice documentation supporting all Louisiana Sales and Use Taxes paid by SUBCONTRACTOR and its Subsubcontractors for the purchase of material, equipment and leased or rented construction equipment, in addition to consumables purchased and delivered within the state of Louisiana. Such documentation shall be provided to CONTRACTOR with each invoice and shall clearly identify (i) the item of material, or equipment purchased, (ii) the amount of Louisiana Sales and Use Tax paid; and (iii) all information (including the Project name and the Project address, which shall be documented on SUBCONTRACTOR's invoice) to properly establish that the material and equipment was used in connection with or incorporated into the Facility. If the Equipment was taken from SUBCONTRACTOR's or Subsubcontractor's inventory, subject to Article 41.4, SUBCONTRACTOR shall provide CONTRACTOR with an invoice, journal vouchers or other similar documentation as may be required to evidence that the applicable Louisiana Sales and Use Tax was paid by SUBCONTRACTOR or its Subsubcontractor on such inventory. OWNER's tax consultant shall assist OWNER to secure all available rebates of Louisiana Sales and Use Taxes and is authorized to request and receive information directly from SUBCONTRACTOR and Subsubcontractors on behalf of OWNER. No information shall be provided to OWNER's tax consultant until such tax consultant has signed a confidentiality agreement with SUBCONTRACTOR and any applicable Subsubcontractor with terms customary in the audit industry for audits of this kind.

43.2 CONTRACTOR shall provide SUBCONTRACTOR with any state and local manufacturing, pollution control or other applicable sales and use tax exemption certificates that CONTRACTOR received from OWNER and which are valid under Applicable Law, including the governing law specified in Article SC 21 titled APPLICABLE LAW. SUBCONTRACTOR will reasonably cooperate with CONTRACTOR and OWNER to minimize any and all taxes relating to the Project.

43.3 If SUBCONTRACTOR or any of its Subsubcontractors incurs any sales and use taxes on any items of material and equipment for which OWNER or CONTRACTOR has previously provided SUBCONTRACTOR with a valid applicable sales and use tax exemption certificate, SUBCONTRACTOR shall be responsible for the payment of such sales and use taxes without reimbursement by CONTRACTOR.

If SUBCONTRACTOR or any of its Subsubcontractors incurs any sales and use taxes on any items of material and equipment for which OWNER or CONTRACTOR have not previously provided SUBCONTRACTOR with a valid applicable sales and use tax exemption certificate, SUBCONTRACTOR shall be reimbursed for the payment of such sales and use taxes by CONTRACTOR.

43.4 CONTRACTOR and OWNER shall have the right to have its third party auditors audit the Books and Records of SUBCONTRACTOR and its Subsubcontractors to confirm that all Louisiana Sales and Use Taxes paid by SUBCONTRACTOR and its Subsubcontractors in connection with the Work are properly owed under Applicable Law; provided, however, if the determination of the proper amount of such Louisiana Sales and Use Tax assessed on any one or more items of material and or equipment is dependent upon knowing the actual cost incurred by SUBCONTRACTOR or its Subsubcontractors for such item of Equipment and the compensation

of such item of Equipment is included in the Subcontract Price or in any lump sum Change Order, that portion of the audit devoted to reviewing the actual cost incurred by SUBCONTRACTOR or its Subsubcontractors for such item of material and/or equipment shall be performed by OWNER's tax consultant, which shall be retained by OWNER at OWNER's sole expense. The Parties agree that (unless the amount of Louisiana Sales and Use Tax properly payable for an item of material and equipment is subject to litigation) such tax consultant shall not disclose to OWNER or CONTRACTOR the actual cost incurred by SUBCONTRACTOR or its Subsubcontractors for any item of material and equipment included in the Subcontract Price, but the Parties agree that such tax consultant may report to Owner the proper Louisiana Sales and Use Taxes properly payable under Applicable Law. No access to Books and Records shall be granted to OWNER's third party auditors until such auditors have signed a confidentiality agreement with SUBCONTRACTOR or any applicable Subsubcontractor with terms customary in the audit industry for audits of this kind.

43.5 SUBCONTRACTOR shall reasonably cooperate with OWNER and CONTRACTOR to minimize any and all Louisiana Sales and Use Taxes arising in connection with the Work, and provided further that in the event CONTRACTOR discovers that it has paid SUBCONTRACTOR for any improperly assessed Louisiana Sales and Use Taxes, SUBCONTRACTOR shall reasonably assist CONTRACTOR and OWNER in the recovery of such refunds and overpayments.

SC-44 LIMITATION OF LIABILITY

Notwithstanding any other provisions of this Subcontract to the contrary, Subcontractor shall not be liable to CONTRACTOR under this Subcontract or under any cause of action related to the subject matter of this Subcontract, whether in contract, warranty, tort (including negligence), strict liability, products liability, professional liability, contribution or any other cause of action, in excess of a cumulative aggregate amount of ten percent (10%) of the Subcontract price, and CONTRACTOR shall release SUBCONTRACTOR from any liability in excess thereof; provided that notwithstanding the foregoing, the limitation of liability set forth in this clause shall not include the proceeds paid under any insurance policy that SUBCONTRACTOR or its Subsubcontractors is required to obtain pursuant to the Subcontract, as the case may be.

In no event shall the limitation of liability set forth in this clause be in any way deemed to limit Subcontractor's obligation to perform all Work required to achieve Ready for Cool Down (RFCD).

EXHIBIT 21.1

MATRIX SERVICE

Subsidiaries

Matrix Service Inc., an Oklahoma corporation

Matrix Service Industrial Contractors, Inc., an Oklahoma corporation

Matrix Service, Inc. Canada, an Ontario, Canada corporation

Matrix Service Industrial Contractors Canada, Inc.

Matrix Service Industrial Contractors ULC

Hake Group, Inc., a Delaware corporation

Bogan, Inc. (including Fiberspec, a division), a Pennsylvania corporation

Matrix Service Specialized Transport, Inc., a Pennsylvania corporation

Hover Systems, Inc., a Pennsylvania corporation

I & S, Inc., a Pennsylvania corporation

McBish Management, Inc., a Pennsylvania corporation

Mechanical Construction, Inc., a Delaware corporation

Mid-Atlantic Constructors, Inc., a Pennsylvania corporation

Talbot Realty, Inc., a Pennsylvania corporation

Bish Investments, Inc., a Delaware corporation

Hake, L.L.C., a Pennsylvania limited liability company

I & S Joint Venture, L.L.C., a Pennsylvania limited liability company

EXHIBIT 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements of Matrix Service Company of our reports dated August 15, 2005, with respect to the consolidated financial statements and schedule of Matrix Service Company, Matrix Service Company management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting of Matrix Service Company, included in this Annual Report (Form 10-K) for the year ended May 31, 2005:

Amendment No. 3 to the Registration Statement Form S-3 (Registration No. 333-117077) and in the related Prospectus related to the registration of $125,000,000 of Common Stock, Preferred Stock, Debt Securities and Warrants

Amendment No. 1 to the Registration Statement on Form S-3 (Registration No. 333-125107) related to the registration of 6,668,449 Shares of Common Stock

Registration Statement on Form S-8 (File No. 33-36081) related to the Matrix Service Company 1990 Incentive Stock Option Plan

Registration Statement on Form S-8 (File No. 333-56945) related to the Matrix Service Company 1991 Stock Option Plan, as amended

Registration Statement of Form S-8 (File No. 333-02771) related to the Matrix Service Company 1995 Nonemployee Directors' Stock Option Plan

/s/ Ernst & Young LLP

Tulsa, Oklahoma
August 15, 2005

Exhibit 31.1

CERTIFICATIONS

I, Michael J. Hall, certify that:

1. I have reviewed this annual report on Form 10-K of Matrix Service;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 15, 2005

Michael J. Hall
President and Chief Executive Officer

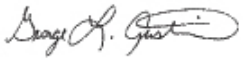
Exhibit 31.2

CERTIFICATIONS

I, George L. Austin, certify that:

1. I have reviewed this annual report on Form 10-K of Matrix Service;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 15, 2005



George L. Austin
Vice President – Finance
and Chief Financial Officer

EXHIBIT 32.1

Certification Pursuant to 18 U.S.C. Section 1350,
As Adopted Pursuant
Section 906 of Sarbannes-Oxley Act of 2002

In connection with the Annual Report of Matrix Service (the "Company") on Form 10-K for the period ending May 31, 2005 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael J. Hall, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that based on my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 15, 2005

Michael J. Hall
President and Chief Executive Officer

EXHIBIT 32.2

Certification Pursuant to 18 U.S.C. Section 1350,
As Adopted Pursuant
Section 906 of Sarbannes-Oxley Act of 2002

In connection with the Annual Report of Matrix Service (the "Company") on Form 10-K for the period ending May 31, 2005 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, George L. Austin, Vice President, Finance and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that based on my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 15, 2005

George L. Austin
Vice President – Finance
and Chief Financial Officer