ENCLOSURE 3

TRANSFER AGREEMENT
BETWEEN
THE U.S. ARMY (ARMY)
AND
THE LOUISIANA MILITARY DEPARTMENT STATE OF LOUISIANA
(LOUISIANA MILITARY DEPARTMENT)

This MOA is entered into between the Army and the Louisiana Military Department hereafter referred to as "the Parties".

WHEREAS, the Army intends to convey and the State of Louisiana intends to accept approximately 14,995 acres located at Louisiana Army Ammunition Plant (LAAAP) ("Property") in accordance with the LAAAP special legislation ("LAAAP Legislation");

WHEREAS, the LAAAP Legislation requires the State to "maintain at least 13,500 acres for the purpose of military training, unless the [Army] Secretary determines that fewer acres are required for such purpose";

WHEREAS, the LAAAP Legislation requires the State to "assume the rights and responsibilities of the Army under the Armaments Retooling Manufacturing Support (ARMS) agreement between the Army and the facility use contractor . . . in accordance with the terms of such agreement in effect at the time of conveyance.";

WHEREAS, the Property includes 13,711 acres of property that are currently being used for military training under the control of the National Guard Bureau ("LAAAP Military Training Property");

WHEREAS, the Property includes the 1,284 acres of property that is being outleased by the Joint Munitions Command (JMC) under the ARMS program ("LAAAP Commercial Property");

WHEREAS, the Louisiana Military Department has been designated to accept the Property on behalf of the State of Louisiana;

WHEREAS, the Army and the Louisiana Military Department intend to transfer the Property pursuant to 42 USC Section 9620 (h)(C) ("CERCLA Early Transfer"); and

WHEREAS, the Army and Louisiana Military Department wish to enter into this agreement outlining the rights and obligations of the Parties associated with the conveyance of the LAAAP to the State of Louisiana;

NOW THEREFORE, the Parties agree as follows:

1. GENERAL PROVISIONS.

1.1. Environmental Remediation.

9448646

1.1.1. Army Responsibilities. The Army will perform the following environmental remediation responsibilities:

(a) Prepare a post-transfer Environmental Baseline Survey to consolidate and update the existing LAAAP environmental documentation.

(b) Investigate and complete the response actions in accordance with the LAAAP Performance Based Cleanup (PBC) contract and the LAAAP Federal Facility Agreement (FFA). The LAAAP environmental remediation program is scheduled to have a remedy in place/remedy complete by December 31, 2005.

(c) The Army will provide copies of draft cleanup documents and correspondence prepared by the Army pertaining to remedial activities at LAAAP to the Camp Minden Commander. In addition, the Louisiana Military Department may attend Army/regulator meetings on the LAAAP environmental remediation program subject to approval of the other meeting participants.

(d) Upon completion of the PBC contract and any additional required response actions to protect human health and the environment with respect to any substance remaining on the Property on the date of transfer (including any off-post migration of groundwater contamination), the Army shall execute and deliver to the Louisiana Military Department an appropriate document containing a warranty that all such response actions have been taken. The making of the warranty shall be considered to satisfy the requirements of CERCLA 120(h)(3)(a)(ii)(I).

(e) Perform:

(1) The closure requirements for Building 1824, Hazardous Waste Storage Building.

(2) The post-closure monitoring and reporting requirements for the DA-9 Solid Waste Landfill for 5 years following property transfer.

(f) Take the appropriate actions to complete the CERCLA National Priorities List (NPL) delisting.

(g) Perform the CERCLA 5-year review associated with the LAAAP environmental remediation program.

(h) Perform any additional remedial action found to be necessary after the date of transfer in accordance with all applicable local, State and Federal requirements that are determined to have resulted from Army activities except as provided in Paragraph 1.2.1.2(e) below.

(i) Be responsible for ensuring that ARMS tenants whose leases expired or were terminated prior to the date of transfer have performed all required environmental remediation accordance with all applicable local, State and Federal requirements.

(j) The Army will submit through its established budget channels to the Director of the Office of Management and Budget a request for funds that will adequately support the required remedial or response actions identified. All correspondence regarding these remedial or response actions will recite that they are being undertaken on property being transferred pursuant to CERCLA Section 120(h)(3)(C), and that once administratively reserved, the funding may not be withdrawn

without the consent of the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).

(k) The Army shall maintain the LAAAP CERCLA Administrative Record on a website that will be accessible to the Louisiana Military Department. If the Army discontinues the website, the Army will provide the Louisiana Military Department a copy of the entire LAAAP CERCLA Administrative Record in an electronic format (i.e., on CD).

1.1.2. Department Responsibilities. The Louisiana Military Department agrees that the Property, with the exception of Area A which is suitable for unrestricted use, will be remediated to commercial/industrial standards (not unrestricted use). In addition, the Louisiana Military Department will accept monitored natural attenuation of the groundwater if that is the remedy selected by the Army and U.S. EPA Region VI. In addition, the Louisiana Military Department agrees to:

(a) Provide Army access to perform any necessary environmental response actions and not interfere with or disrupt Army remedial investigations, response actions, and oversight activities.

(b) Comply with and ensure that all tenants, visitors, and agents comply with all environmental land use restrictions required as part of the LAAAP environmental remediation program.

(c) Upon completion of the Army environmental remediation program (i.e., all investigation and remediation activities excluding long-term monitoring and operations and maintenance), assume responsibility for maintaining any institutional and engineering controls.

(d) Assume responsibility for any monitoring, sampling, or reporting requirements that are associated with the environmental restoration activities of the Army (including the DA-9 Solid Waste Landfill post-closure monitoring and reporting requirements) on LAAAP upon completion of the monitoring under the PBC contract and bear such responsibility until such time as such monitoring, sampling, or reporting is no longer required.

(e) Be responsible for any remedial action found to be necessary after the date of transfer in accordance with all applicable local, State and Federal requirements that are determined to have resulted from Louisiana Military Department activities.

(f) Be responsible for ensuring that current and future ARMS and other tenants perform all environmental remediation required after the date of transfer in accordance with all applicable local, State, and Federal requirements.

1.2. Explosive Safety Responsibilities.

1.2.1. Load, Assemble, Pack (LAP) Lines.

1.2.1.1. Army Responsibilities. The Army will perform the following explosive safety responsibilities at the LAAAP LAP Lines:

(a) Characterize buildings, associated infrastructure, and Army leased equipment (e.g., explosive production equipment) to identify any potential explosive hazards. See attached LAAAP Explosive Safety Characterization Report dated November 2004 (FOSET Enclosure 12).

(b) Ensure that adequate fencing, barriers, or warning signs are in place prior to transfer to identify and limit access to areas that pose an explosive hazard.

(c) Develop explosive safety deed restrictions ("Explosive Safety Restrictions") to ensure the continued safe use of the LAAAP property. See Explosive Safety Restrictions (FOSET Enclosure 5).

1.2.1.2. Department Responsibilities. The Louisiana Military Department will perform the following explosive safety responsibilities:

(a) Comply with and ensure that all tenants, visitors, and agents comply with the Explosive Safety Restrictions.

(b) Designate an Explosive Safety Official to implement and ensure compliance with all applicable Explosive Safety Restrictions. The term "Explosive Safety Official" shall mean an individual who is trained and experienced in explosives safety management. The Explosive Safety Official's training and experience should include: knowledge of military and commercial explosives, to include by products that may either be explosive or accumulate in sufficient concentrations to present an explosive hazard; life-cycle military munitions or commercial explosives management; risk assessment and management, to include development and/or design of processes or procedures to mitigate explosive hazards.

(c) After property transfer, maintain all fences, barriers, and warning signs (except for former ranges) required to identify and limit access to areas that pose an explosive hazard.

(d) After property transfer, assume responsibility for any explosive remediation of buildings, associated infrastructure, and Army leased equipment that pose an explosive hazard (including explosive contamination due to past Army activities). No Army leased equipment that poses an explosive hazard (e.g., explosive production equipment) will be disposed of without the approval of the Explosive Safety Official. No buildings that pose a potential explosive hazard will be disposed of without first obtaining Army (through the U.S. Army Technical Center for Explosives Safety) and DDESB approval.

(e) Be responsible for disposal of any residual explosives incidental to the explosive decontamination procedures (e.g., removal of accumulation of explosive residues from underneath excavated building foundations or sumps) on the LAAAP Commercial Property after property transfer. This responsibility will not include groundwater remediation except to the extent that the groundwater contamination is a result of Louisiana Military Department activities or tenant activities after the date of property transfer.

1.2.2. Former Ranges (Burning Ground 5 (BG 5) and Central Proving Ground (CPG)) and the Small Arms Range

1.2.2.1. Army Responsibilities. The Army will perform the following explosive safety responsibilities at the LAAAP Former Ranges (BG 5 and CPG) and the Small Arms Range:

(a) Investigate and complete the munitions response actions for the Former Ranges (BG 5 and CPG) at LAAAP in accordance with a DDESB approved explosive site submission (ESS). The

Site Inspection for the Former Ranges (BG 5 and CPG) is scheduled to be completed by December 31, 2006. If a munitions response action is required, the Engineering Evaluation/Cost Analysis (EE/CA) is scheduled to be completed by September 30, 2008 and the munitions response action by 30 September 2009

(b) Investigate and complete the remediation of the Small Arms Range. The remedial investigation is scheduled to be completed by December 31, 2006. If a remedial action is required, the removal action is scheduled to be completed by September 30, 2009.

(c) Maintain fencing and warning signs for the Former Ranges (BG 5 and CPG) and the Small Arms Range until completion of the Army munitions response and environmental actions.

1.2.2.2. Department Responsibilities. The Louisiana Military Department will perform the following explosive safety responsibilities at the LAAAP Former Ranges:

(a) Comply with all explosive safety restrictions and ensure that all tenants, visitors, and agents comply with the explosive safety restrictions.

(b) After transfer, notify the Army of any damage to the former range fences, barriers, and warning signs within 3 working days.

1.3 Land Use Restrictions

(a) The Army and Louisiana Military Department will implement the attached Land Use Restriction Management Plan to outline the land use restrictions and procedures to be used to prevent land use restriction violations (Appendix C). PG 70

(b) If after property transfer, the Army determines that additional or modified land use restrictions/environmental protection provisions are necessary as a component of environmental remediation or explosive safety, the Louisiana Military Department agrees to record an instrument containing such modified or additional provisions in the public land records. In the process of drafting these provisions, the Army agrees to consult in good faith with the Louisiana Military Department to minimize the impact these provisions on intended re-use of the Property.

1.4. Environmental Compliance/Enforcement Actions

1.4.1. Army Responsibilities

(a) The Army will be responsible to complete the requirements to transfer ownership of the NPDES LA 0003549 permit (storm water and wastewater discharge permit) and the LDHH Public Water Supply System number LA1119018. All fees associated with the transfer will be the responsibility of the Louisiana Military Department.

(b) The Army will notify the State that the following fees will be the responsibility of the Louisiana Military Department once the transfer is finalized:

(1) LDEQ Water Pollution Control Fee

(2) LDEQ Air Toxics Fee

(3) LDEQ Ground Water Inspection Fee

(4) LDHH Safe Drinking Water Administrative Fee.

(c) The Army shall be responsible for all environmental enforcement actions (including fines or corrective actions) and other environmental fees issued after the date of transfer relating to the Army's environmental or explosive cleanup program.

1.4.2. Department Responsibilities

(a) The Louisiana Military Department will accept the transfer of ownership of the NPDES LA 0003549 permit (storm water and wastewater discharge permit) and the LDHH Public Water Supply System number LA1119018. All fees associated with the transfer will be the responsibility of the Louisiana Military Department.

(b) The Louisiana Military Department will be responsible for the following fees once the transfer has been completed:

(1) LDEQ Water Pollution Control Fee

(2) LDEQ Air Toxics fee

(3) LDEQ Ground Water Inspection Fee

(4) LDHH Safe Drinking Water Administrative Fee.

(c) The Louisiana Military Department shall be responsible for all environmental enforcement actions (including fines or corrective actions) and other environmental fees after the date of transfer except for enforcement actions or environmental fees related to the Army's environmental or explosive cleanup program.

1.5. Operational Costs/Infrastructure

1.5.1. Army Responsibilities

(a) **Relocation of Army Mission.** The Army shall be responsible for all costs associated with relocating U.S. Army mission activities, except as otherwise agreed by the parties. The Army intends to relocate or transfer ownership to the Louisiana Military Department of personal property as per Appendix A

(b) **Leaseback Arrangements.** The Army shall have the right to leaseback Building 2629 (Rooms 108, 110, and 112) and the Building 210 storage area (including utilities) at no cost to allow the Army to complete remediation of LAAAP. If the Army requires additional facilities to complete the remediation, the Army and Louisiana Military Department will identify additional available buildings that the Army can leaseback at no cost.

(c) **Property Damage.** The Army shall be responsible for repairs of any damage it causes or allows to happen to property for which the Louisiana Military Department is accountable; for

example, fences, roads, and drainage ditches. Damages to road surfaces caused by Army activities are the responsibility of the Army and will be repaired to the original condition/standard (sand, gravel, asphalt, or concrete).

(d) **Records Management.** The Army shall provide to the Louisiana Military Department installation drawings and documentation, e.g., utility distribution systems, building drawings and environmental documentation that may be needed by the Louisiana Military Department to assure environmental compliance or pursue other efforts such as special projects. Upon request, the Louisiana Military Department shall provide the Army access to the installation drawings and documentation as necessary.

1.5.2. Department Responsibilities

(a) **Property Management.** The Louisiana Military Department shall be responsible for all costs associated with management of the Property (e.g., maintenance of the infrastructure, property management, etc.) and performance of the Louisiana Military Department mission except as otherwise agreed by the parties. See Section 1.7(a) – Facility Use Contract.

(b) **Military Training.** The Louisiana Military Department shall maintain at least 13,500 acres of LAAAP for military training, unless the Army determines that fewer acres are required for such purpose. The Louisiana Military Department shall ensure that any uses that are made of the property do not adversely impact military training. The Louisiana Military Department shall accommodate military training use of the property at no cost or fee, to meet the present and future training needs of Armed Forces units, including active and reserve components of the Armed Forces. The Louisiana Military Department shall ensure that any commercial/industrial uses that are made on other portions of LAAAP do not adversely impact military training.

(c) **ARMS Agreement.** The Louisiana Military Department shall ensure that any portion of LAAAP that is not used for military training shall be used for commercial/industrial purposes (e.g., ARMS Tenant activities) and not for unrestricted purposes, except for Area A which has been determined to be suitable for unrestricted use. The Louisiana Military Department shall assume the rights and responsibilities of the Army under the ARMS agreement between the Army and the facility use contractor with respect to LAAAP in accordance with the terms of such agreement in effect at the time of the conveyance. The Louisiana Military Department shall ensure that any military training activities that are conducted on other portions of LAAAP do not adversely impact commercial/industrial activities.

(d) **Personal Property.** Allow all equipment/personal property (that for which Army hereby retains responsibility) to remain in place, at no cost to the Army, and grant the Army access to remove the personal property. (See Appendix A for additional information regarding disposal of Army equipment/personal property.)

(e) **Leaseback Arrangement.** Allow the Army to leaseback Building 2629 (Rooms 108, 110, and 112) and the Building 210 storage area (including utilities) at no cost to allow the Army to complete remediation of LAAAP. If the Army requires additional facilities to complete the remediation, the Army and Louisiana Military Department will identify additional available buildings that the Army may leaseback at no cost.

(f) **Property Damage.** Be responsible for repairs of any damage it causes or allows to happen to property for which the Army is accountable; for example, site fencing, warning signs, barriers, and monitoring wells.

(g) **Conveyance Costs.** The Louisiana Military Department shall reimburse the Army for costs incurred by the Army to carry out the conveyance of the LAAAP property, including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance.

1.6. Personnel

The Army will make use of any and all VERA and VSIP authorities to ensure that eligible Army personnel working at the facility will be able to retire in lieu of separation. Other employees will be afforded Reduction-in-Force (RIF) entitlements in accordance with applicable laws and regulations including 5 C.F.R. 351. The Louisiana Military Department will make a good faith effort to offer positions at Camp Minden to qualified former Army employees separated through RIF as federal Title 5 or Title 32 employees to the maximum extent possible.

1.7. Contracts

(a) **Facility Use Contract**. The Army shall continue the facility use contract until December 31, 2004. If the property is not transferred on January 1, 2005, the Army will extend the facility use contract on a month to month basis through June 30, 2005. After property transfer, the Louisiana Military Department will provide base operations support for the property.

(b) **Database Management and Area "P" Well Maintenance Contracts**. The Army shall continue to fund the Database Management until LAAAP is removed from the National Priorities List. The Army shall fund the Area "P" Well Maintenance contracts (including closure of inactive wells) until five years after the date of the Property transfer. If the Area "P" Wells are required five years after the date of transfer, the Louisiana Military Department shall be responsible for the Area "P" Well Maintenance (including the eventual closure of all active wells). The Joint Munitions Command (JMC) manages these contracts for the U.S. Army Environmental Center (USAEC) in support of the Army's Remediation efforts at LAAAP.

2. DISPUTE RESOLUTION:

(a) If a dispute arises regarding implementation of this Agreement, the Army and Louisiana Military Department project leader shall make a good faith effort to settle the dispute informally, at the local level. If the dispute cannot be resolved informally at that level, either party may initiate Dispute Resolution.

(b) To initiate Dispute Resolution, the disputing party shall advise the other party of its intent to invoke Dispute Resolution and give written notice of the dispute. The notice shall include a detailed explanation of the dispute. Upon receipt of such notice the parties shall make their best efforts to resolve the dispute within 14 calendar days.

(c) If the parties do not resolve the dispute within 14 days, the dispute will be elevated to the Joint Munitions Command (JMC) Chief of Staff and the Louisiana Military Department Chief of Staff.

Within 30 days of receiving the dispute, the JMC Chief of Staff and Louisiana Military Department Chief of Staff shall confer and attempt to resolve the dispute.

(d) If the dispute is not resolved within 60 days of its notification, the disputing party may elevate the dispute to the Assistant Secretary of the Army (Installations and Housing) and Louisiana Military Department Deputy Adjutant General. Within 30 days of the elevation of the dispute, the parties shall confer and resolve the dispute.

3. FUNDING:

The terms of this Agreement are subject and limited to the availability of appropriated Federal funds as to time, purpose, and amount, and the laws of the United States. Nothing in this Agreement shall be construed as obligating funds in violation of the Anti-Deficiency Act, 31 U.S.C. 1341.

4. AMENDMENTS:

This Agreement may be amended at any time with the written consent of the signatories indicated below, or their respective replacements. Each amendment shall be subsequently numbered and dated.

5. EFFECTIVE DATE:

This Agreement will be effective upon its execution by both parties.

For the Army:

Joseph W. Whitaker

Joseph W. Whitaker
Deputy Assistant Secretary of the Army
Installations and Housing

08 Dec 2004
(Date)

For the Louisiana Military Department:

Bennett C. Landreneau

Bennett C. Landreneau
Major General, LAARNG
The Adjutant General

08 Dec 2004
(Date)