**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE SOUTHERN DISTRICT OF TEXAS**
**HOUSTON DIVISION**

| | |
|---|---|
| In re: | Chapter 11 |
| ZACHRY HOLDINGS, INC., *et al.*[1] | Case No. 24-90377 (MI) |
| Debtors. | (Jointly Administered) |
| FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; and FLNG LIQUEFACTION 3, LLC, | Adv. Pro. No. 24-03189 (MI) |
| Plaintiffs, | |
| v. | |
| ZACHRY INDUSTRIAL, INC.; ZACHRY INDUSTRIES, INC.; JVIC DEMERGER FABRICATION, INC.; ZACHRY ENTERPRISE SOLUTIONS DEMERGER, INC.; CB&I LLC n/k/a; MCDERMOTT INTERNATIONAL LTD.; CHIYODA INTERNATIONAL CORPORATION; and PSRG, INC., | |
| Defendants. | |

[1] The last four digits of Zachry Holdings, Inc.'s tax identification number are 6814. A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' claims and noticing agent at www.veritaglobal.net/ZHI. The location of the Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

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| | |
|---|---|
| ALLIANZ GLOBAL RISKS US INSURANCE CO.; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON SUBSCRIBING TO POLICY NO. B0180ME2219036; GREAT LAKES INSURANCE SE; GUIDEONE NATIONAL INSURANCE COMPANY; and TOKIO MARINE AMERICA INSURANCE COMPANY, as subrogees of FLNG Policy Procurement LLC; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC<br><br>Plaintiffs,<br><br>v.<br><br>ZACHRY INDUSTRIAL, INC.; ZACHRY INDUSTRIES, INC.; JVIC DEMERGER FABRICATION, INC.; ZACHRY ENTERPRISE SOLUTIONS DEMERGER, INC.; CB&I LLC n/k/a; MCDERMOTT INTERNATIONAL LTD.; CHIYODA INTERNATIONAL CORPORATION; and PSRG, INC.,<br><br>Defendants. | Adv. Pro. No. 24-03190 (MI) |
| FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC<br><br>Plaintiffs,<br><br>v.<br><br>CB&I INC.; ZACHRY INDUSTRIAL, INC.; and CHIYODA INTERNATIONAL CORPORATION,<br><br>Defendants. | Adv. Pro. No. 24-03195 (MI) |

**NOTICE OF FILING**
**OF MOTION TO DISMISS HEARING PRESENTATION**

**PLEASE TAKE NOTICE THAT** attached hereto as **Exhibit A** is a copy of the presentation that was presented by the above-captioned debtors and debtors in possession at the hearing on November 18, 2024 at 9:00 a.m. (prevailing Central Time) in the above-captioned chapter 11 cases and related adversary proceedings.

[*Remainder of page left intentionally blank*]

Dated: November 19, 2024
Houston, Texas

/s/ *Charles R. Koster*

**WHITE & CASE LLP**
Charles R. Koster (Texas Bar No. 24128278)
609 Main Street, Suite 2900
Houston, Texas 77002
Telephone: (713) 496-9700
Facsimile: (713) 496-9701
Email: charles.koster@whitecase.com

Bojan Guzina (admitted *pro hac vice*)
Andrew F. O'Neill (admitted *pro hac vice*)
Michael Andolina (admitted *pro hac vice*)
William Guerrieri (admitted *pro hac vice*)
Fan B. He (admitted *pro hac vice*)
Adam T. Swingle (admitted *pro hac vice*)
Barrett Lingle (admitted *pro hac vice*)
111 South Wacker Drive, Suite 5100
Chicago, Illinois 60606
Telephone: (312) 881-5400
Email: bojan.guzina@whitecase.com
aoneill@whitecase.com
mandolina@whitecase.com
william.guerrieri@whitecase.com
fhe@whitecase.com
adam.swingle@whitecase.com
barrett.lingle@whitecase.com

*Counsel to the Debtors and*
*Debtors in Possession*

**Certificate of Service**

I certify that on November 19, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

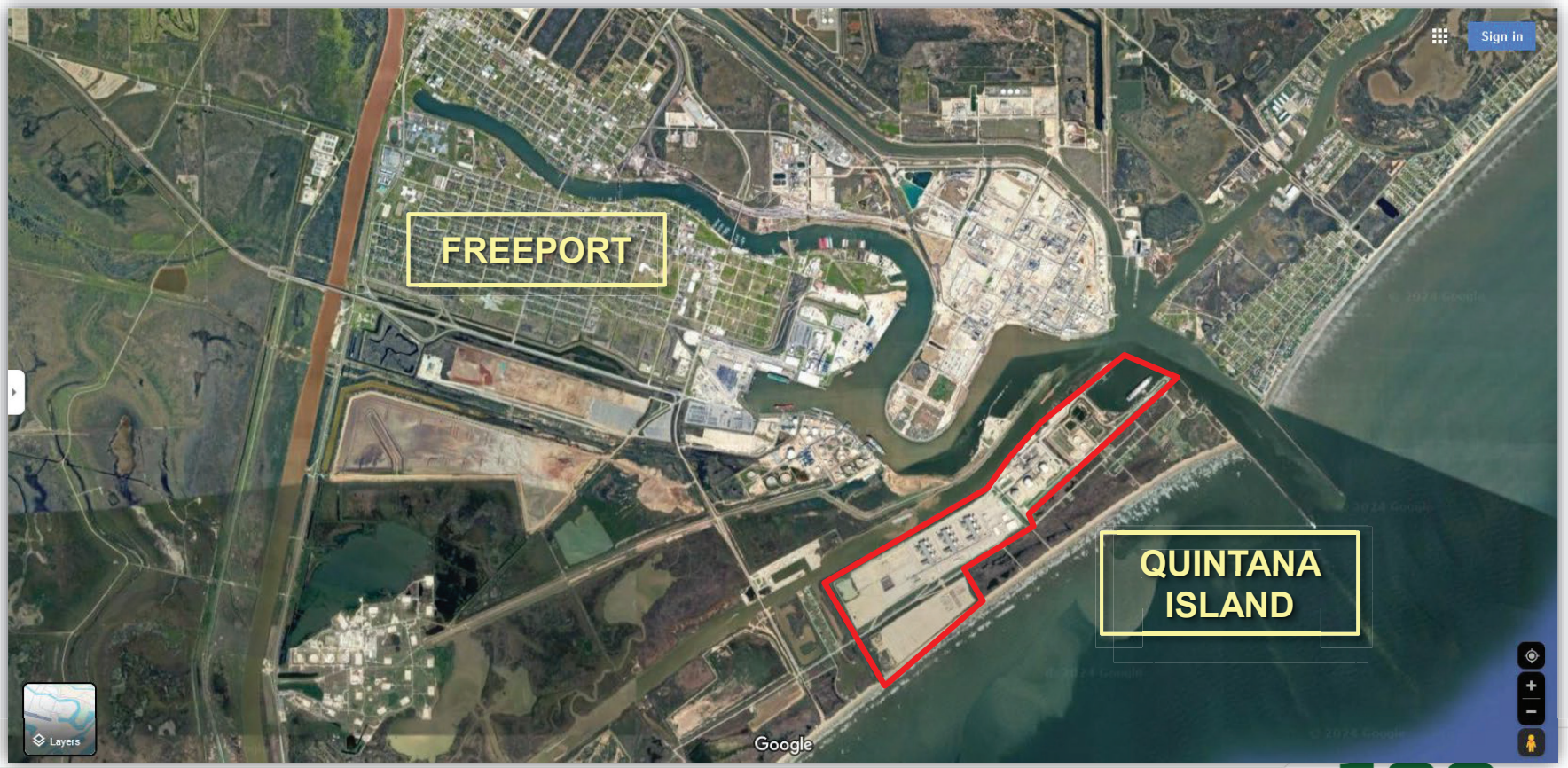
/s/ *Charles R. Koster*
Charles R. Koster

**Exhibit A**

**Motion to Dismiss Hearing Presentation**


ZACHRY GROUP
MOTIONS TO DISMISS
November 18, 2024
Adversary No. 24-03195
Motor Defect
Adversary No. 24-03189
FLNG Subrogation
Adversary No. 24-03190
Allianz Subrogation
100 YEARS OF ZACHRY

# FLNG Export Project






100 YEARS OF ZACHRY

# FLNG Trains 1-3






100 YEARS OF ZACHRY

# FLNG Export Facility – Mega Project

**What 2.2 Bcf of LNG Equivalent per Day Means**

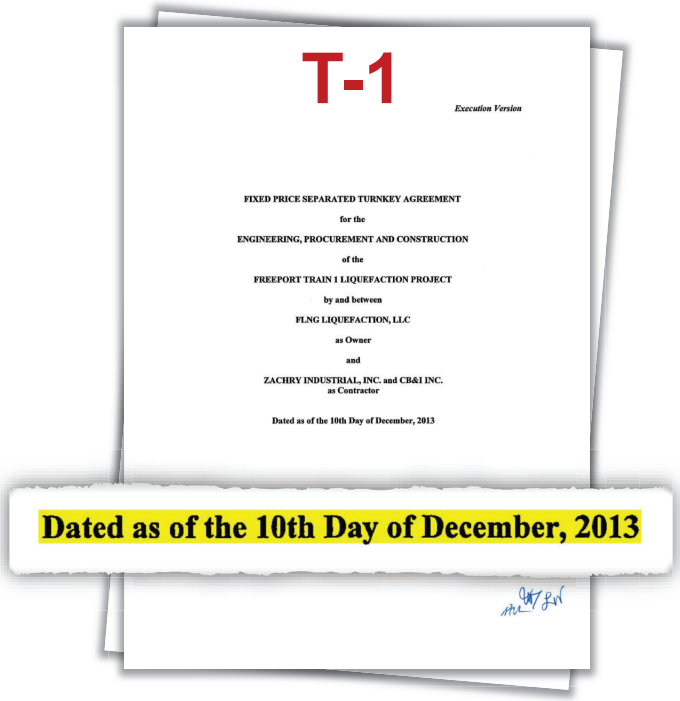
Building a facility that will produce enough LNG to supply energy for a city of 2.5 million people for an entire day is a massive and expensive undertaking. However, the project's benefits and far-reaching economic impacts are equally impressive. Approximately 30,000 new permanent jobs are expected to be created across the U.S. to support the exploration and production of feed gas supplied to our facility. The complete economic benefits of exporting the contracted 15 mtpa of LNG from the U.S. are estimated between $5.5 billion and $8 billion annually.

*https://freeportlng.com/our-business/gas-liquefaction*

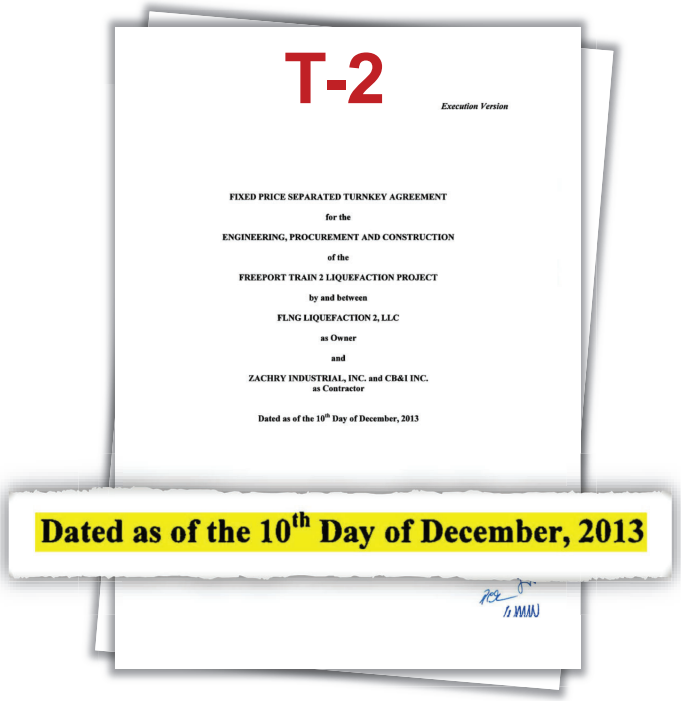


100 YEARS OF ZACHRY

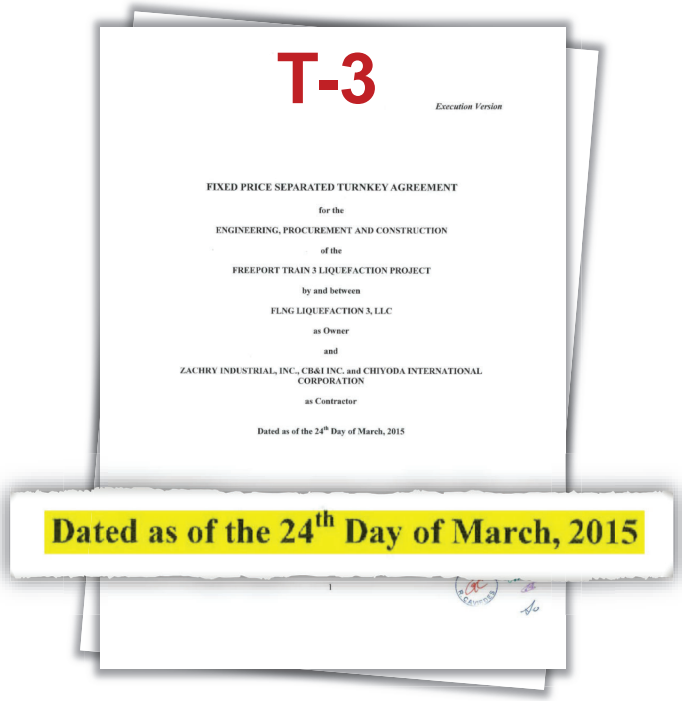
# FLNG Export Project




Commercial Operations
**December 2019**




Commercial Operations
**January 2020**




Commercial Operations
**May 2020**



100 YEARS OF ZACHRY

# Mega Project Risk Management

**"Limitation-of-liability clauses . . . are generally valid and enforceable."** *Bombardier Aerospace Corp. v. SPEP Aircraft Holdings, LLC*, 572 S.W.3d 213, 231 (Tex. 2019).

**"[T]he parties have relinquished a claim to any consequential damages to which they might be entitled in the event of a lawsuit, which the paragraph explicitly contemplates . . . ."** *James Constr. Group, LLC v. Westlake Chem. Corp.,* 650 S.W.3d 392, 416 (Tex. 2022), reh'g denied (Sept. 2, 2022).

**"Texas law explicitly blesses the existence of consequential damages waivers."** *Safety Vision LLC v. LEI Tech. Canada*, No. 4:21-CV-03306, 2024 WL 3094649, at *6 (S.D. Tex. June 20, 2024) (Ellison, J.).



100 YEARS OF ZACHRY

# Mega Project Risk Management

**"Risks of economic loss tend to be especially well suited to allocation by contract."** *LAN/STV v. Martin K. Eby Const. Co., Inc.*, 435 S.W.3d 234, 240 (Tex. 2014).

**"A contract that settles responsibility for such a risk will therefore be preferable in most cases to a judicial assignment of liability after harm is done."** *LAN/STV v. Martin K. Eby Const. Co., Inc.*, 435 S.W.3d 234, 241 (Tex. 2014).



100 YEARS OF ZACHRY

# FLNG EPC Contract



*Execution Version*

FIXED PRICE SEPARATED TURNKEY AGREEMENT

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

FREEPORT TRAIN 3 LIQUEFACTION PROJECT

by and between

FLNG LIQUEFACTION 3, LLC

as Owner

and

ZACHRY INDUSTRIAL, INC., CB&I INC. and CHIYODA INTERNATIONAL CORPORATION

as Contractor

Dated as of the 24th Day of March, 2015

1

**Art. 8 – Title and Risk of Loss**

**Art. 12 – Warranty and Correction of Work**

**Art. 9 – Insurance and Letter of Credit**

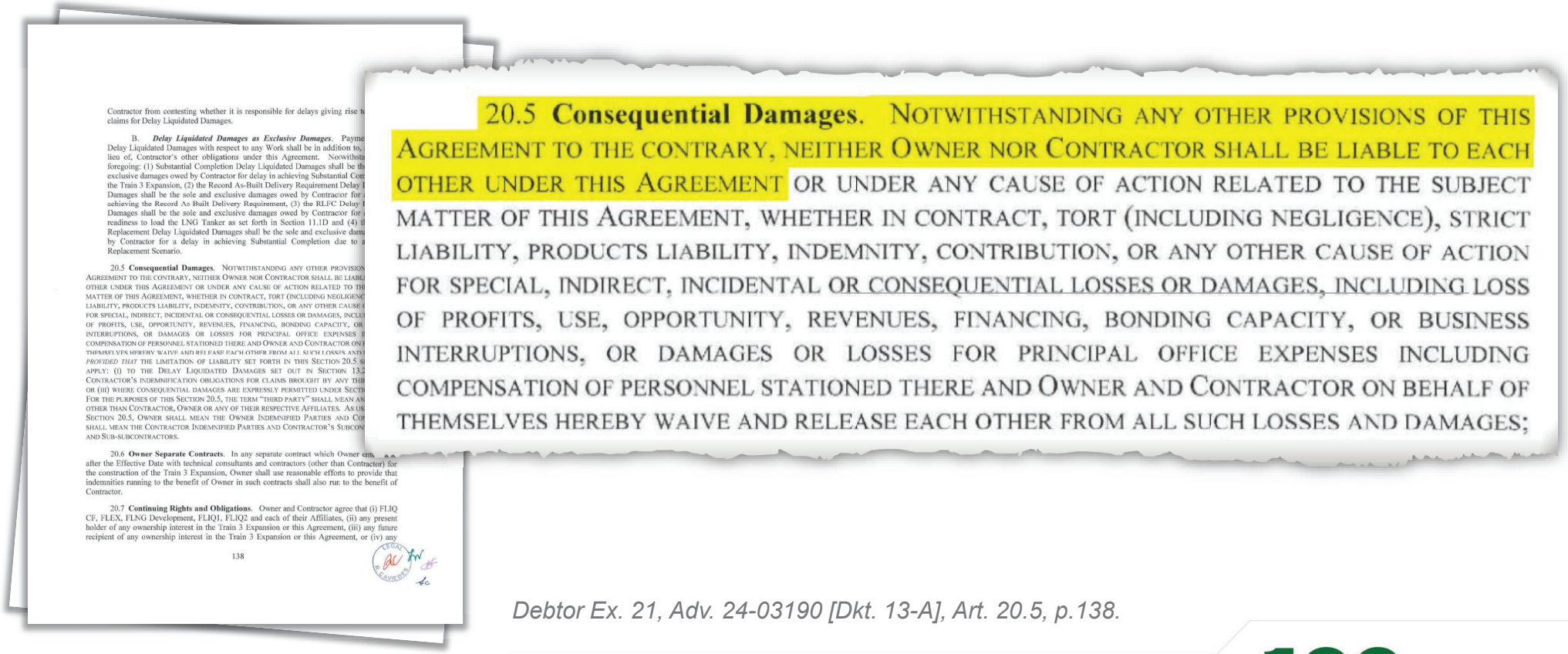
**Art. 20 – Limitation of Liability**

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A].*



100 YEARS OF ZACHRY

# Art. 20 – No Consequential Damages



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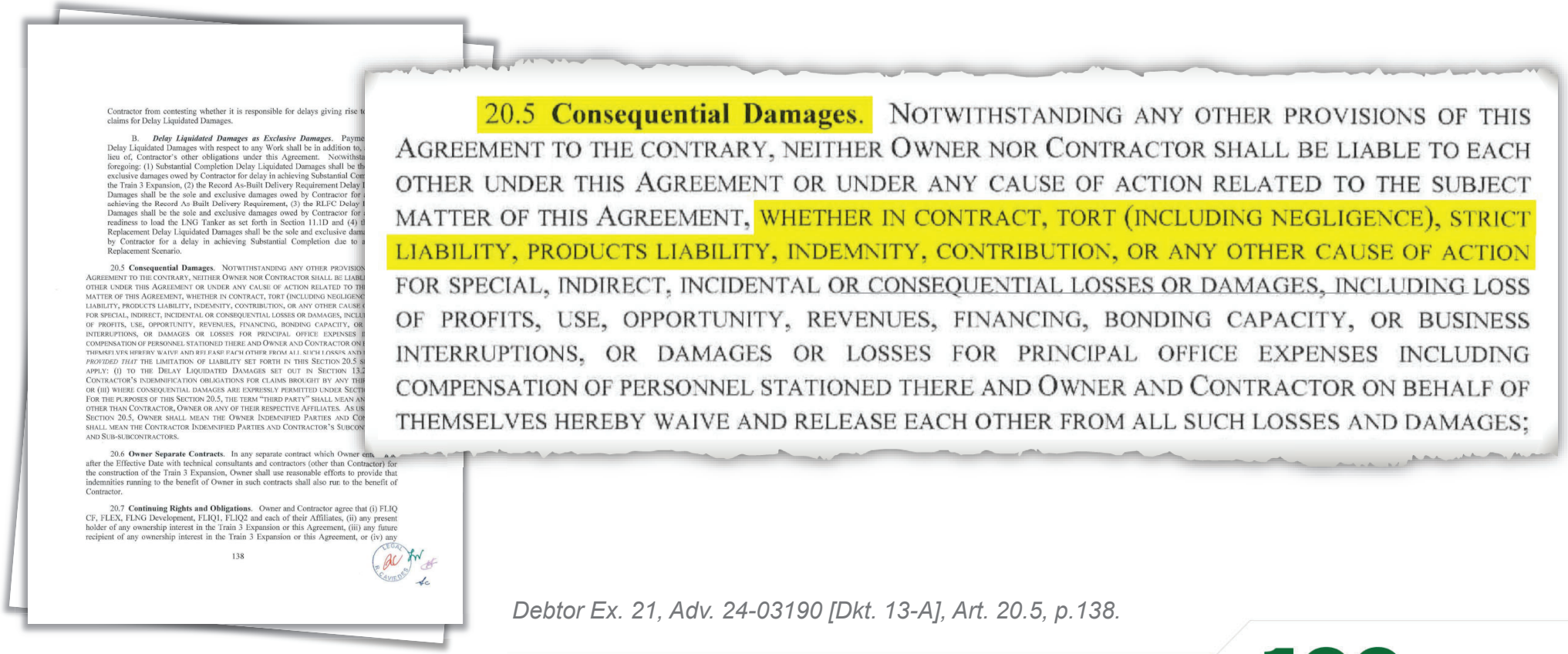
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100 YEARS OF ZACHRY

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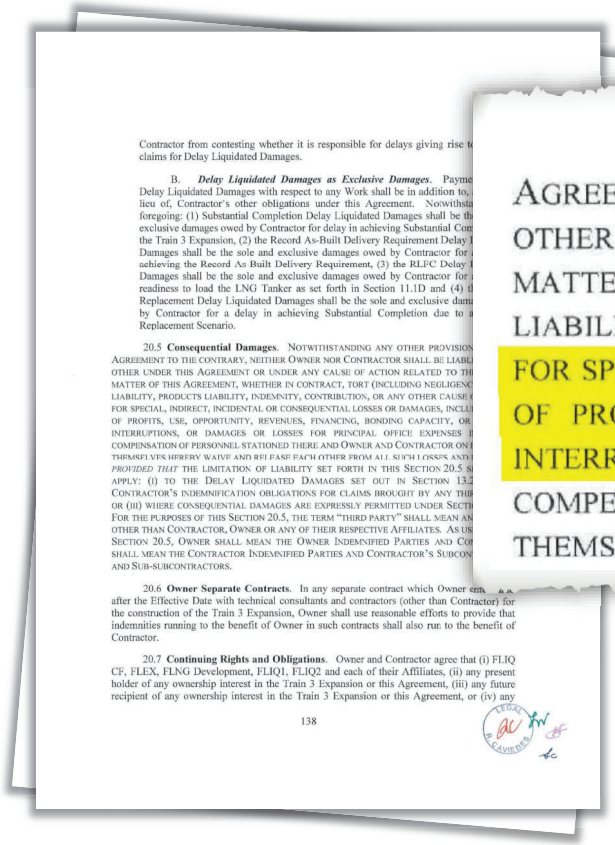
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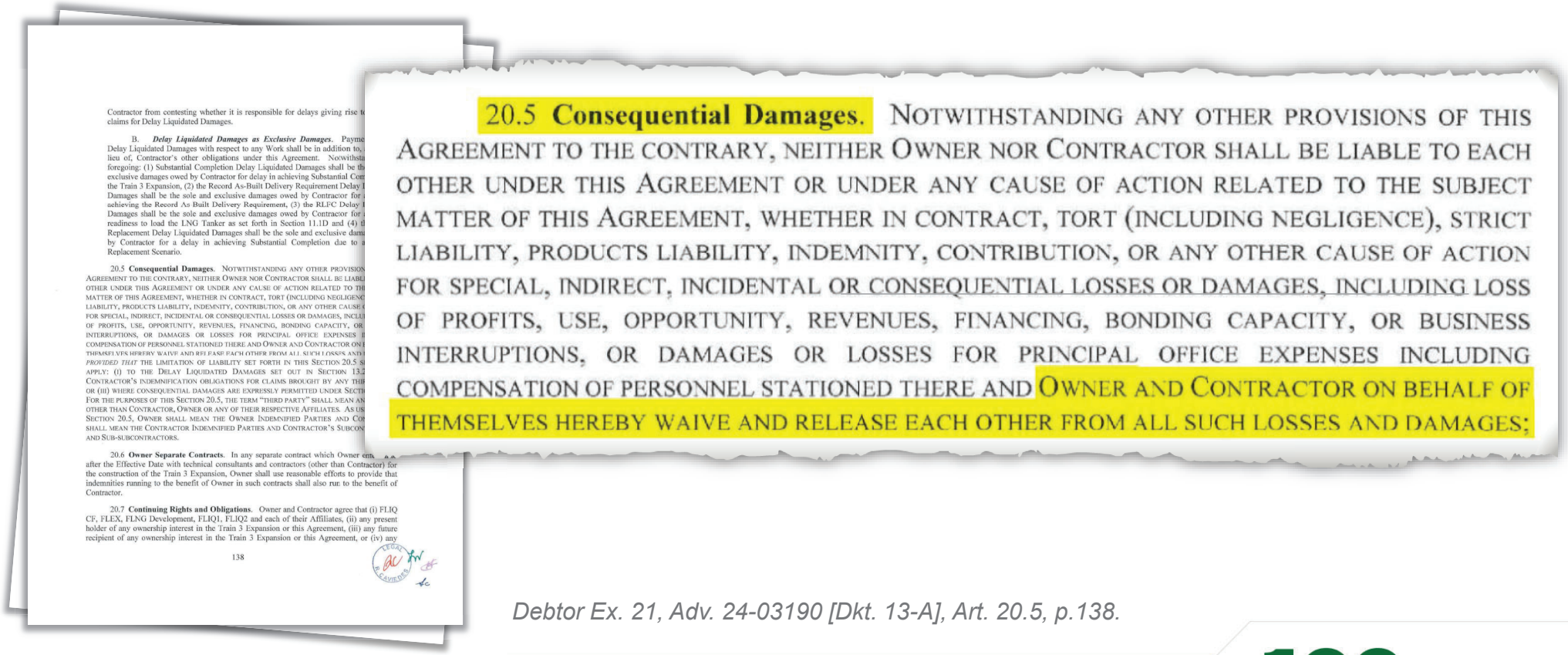
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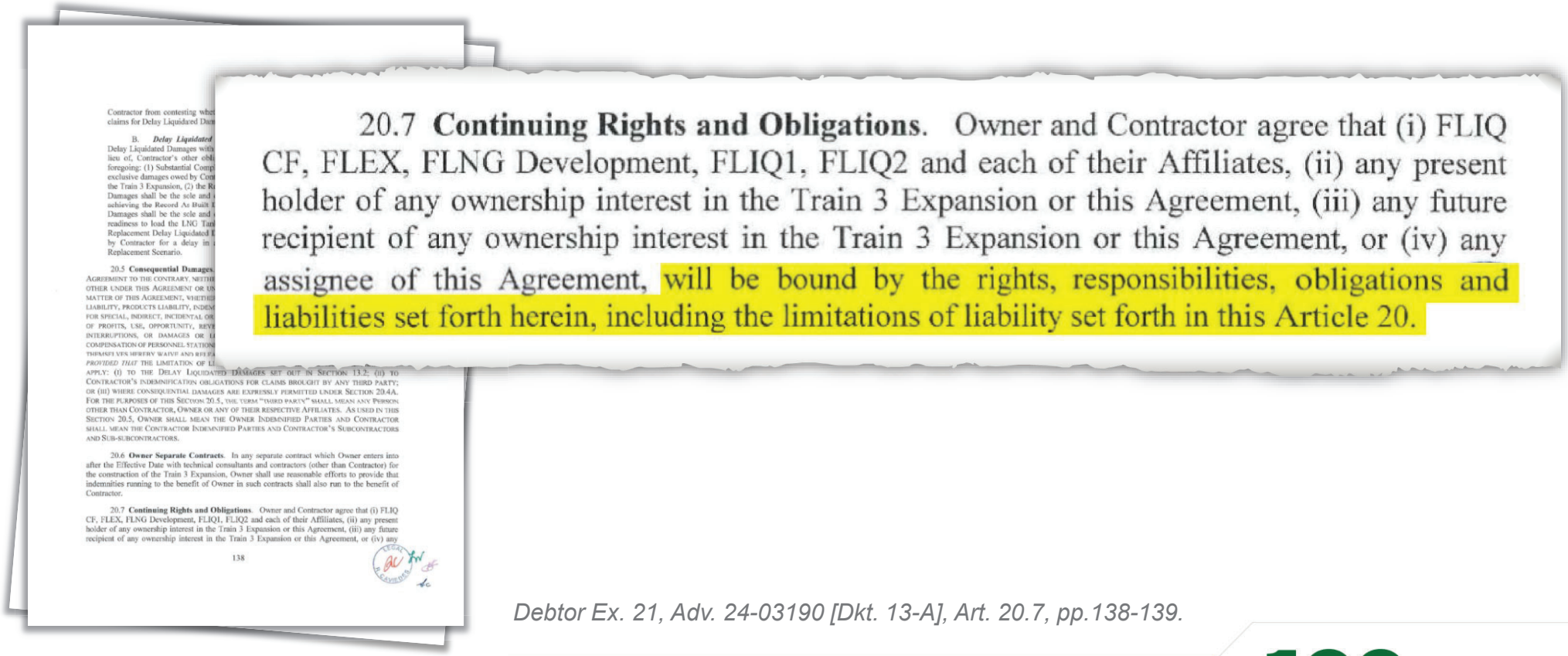
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100 YEARS OF ZACHRY

# Art. 20 – Limitation of Liability



20.7 **Continuing Rights and Obligations.** Owner and Contractor agree that (i) FLIQ CF, FLEX, FLNG Development, FLIQ1, FLIQ2 and each of their Affiliates, (ii) any present holder of any ownership interest in the Train 3 Expansion or this Agreement, (iii) any future recipient of any ownership interest in the Train 3 Expansion or this Agreement, or (iv) any assignee of this Agreement, will be bound by the rights, responsibilities, obligations and liabilities set forth herein, including the limitations of liability set forth in this Article 20.

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 20.7, pp.138-139.*

# FLNG EPC Contract



*Execution Version*

FIXED PRICE SEPARATED TURNKEY AGREEMENT

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

FREEPORT TRAIN 3 LIQUEFACTION PROJECT

by and between

FLNG LIQUEFACTION 3, LLC

as Owner

and

ZACHRY INDUSTRIAL, INC., CB&I INC. and CHIYODA INTERNATIONAL CORPORATION

as Contractor

Dated as of the 24th Day of March, 2015

1

**Art. 8 – Title and Risk of Loss**

**Art. 12 – Warranty and Correction of Work**

**Art. 9 – Insurance and Letter of Credit**

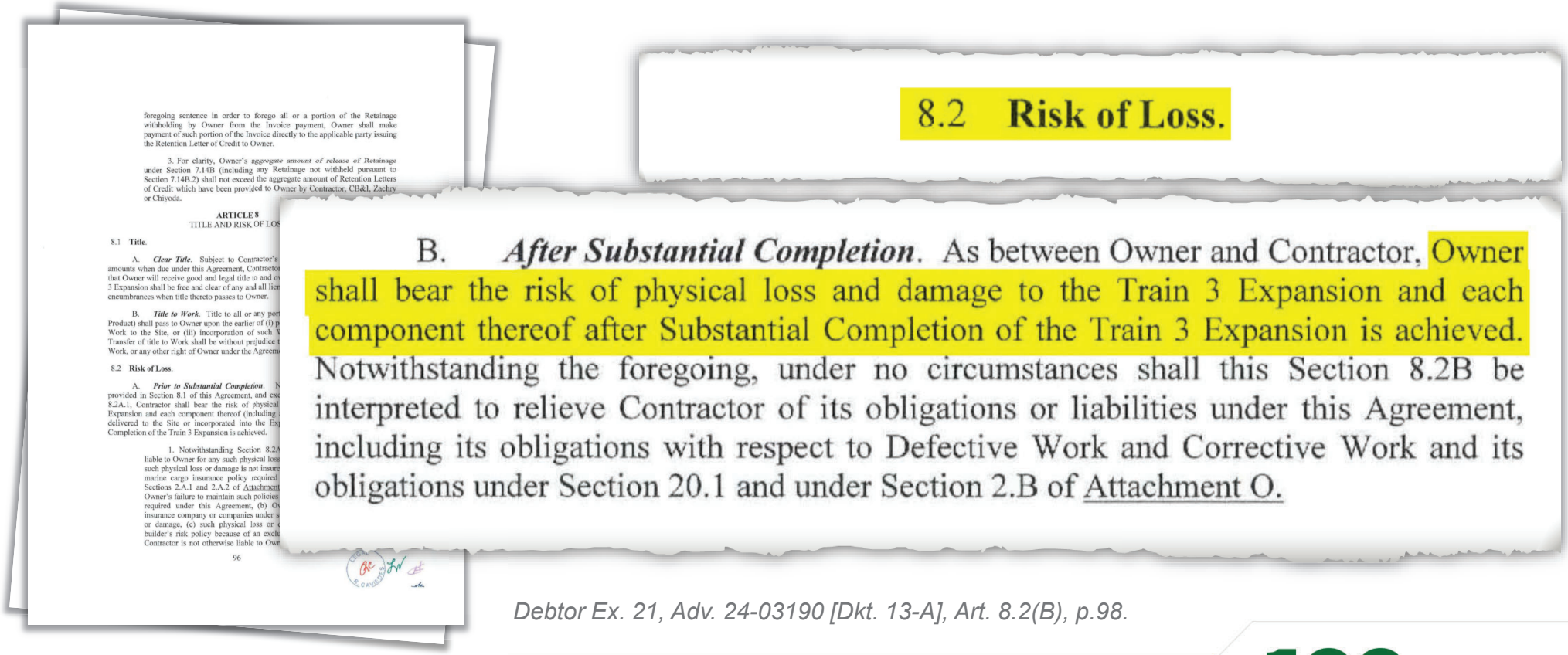
**Art. 20 – Limitation of Liability**

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A].*



100 YEARS OF ZACHRY

# Art. 8 – Title and Risk of Loss



foregoing sentence in order to forego all or a portion of the Retainage withholding by Owner from the Invoice payment, Owner shall make payment of such portion of the Invoice directly to the applicable party issuing the Retention Letter of Credit to Owner.

3. For clarity, Owner's *aggregate amount of release of Retainage* under Section 7.14B (including any Retainage not withheld pursuant to Section 7.14B.2) shall not exceed the aggregate amount of Retention Letters of Credit which have been provided to Owner by Contractor, CB&I, Zachry or Chiyoda.

ARTICLE 8
TITLE AND RISK OF LOS

8.1 **Title.**

A. ***Clear Title.*** Subject to Contractor's amounts when due under this Agreement, Contractor that Owner will receive good and legal title to and o 3 Expansion shall be free and clear of any and all lien encumbrances when title thereto passes to Owner.

B. ***Title to Work.*** Title to all or any port Product) shall pass to Owner upon the earlier of (i) p Work to the Site, or (iii) incorporation of such W Transfer of title to Work shall be without prejudice t Work, or any other right of Owner under the Agreem

8.2 **Risk of Loss.**

A. ***Prior to Substantial Completion.*** N provided in Section 8.1 of this Agreement, and exc 8.2A.1, Contractor shall bear the risk of physical Expansion and each component thereof (including delivered to the Site or incorporated into the Ex Completion of the Train 3 Expansion is achieved.

1. Notwithstanding Section 8.2A liable to Owner for any such physical loss such physical loss or damage is not insure marine cargo insurance policy required Sections 2.A.1 and 2.A.2 of Attachment Owner's failure to maintain such policies required under this Agreement, (b) O insurance company or companies under s or damage, (c) such physical loss or d builder's risk policy because of an exclu Contractor is not otherwise liable to Own

96

8.2 **Risk of Loss.**

B. ***After Substantial Completion.*** As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train 3 Expansion and each component thereof after Substantial Completion of the Train 3 Expansion is achieved. Notwithstanding the foregoing, under no circumstances shall this Section 8.2B be interpreted to relieve Contractor of its obligations or liabilities under this Agreement, including its obligations with respect to Defective Work and Corrective Work and its obligations under Section 20.1 and under Section 2.B of Attachment O.

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 8.2(B), p.98.*



100 YEARS OF ZACHRY

# FLNG EPC Contract



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**Art. 8 – Title and Risk of Loss**

**Art. 12 – Warranty and Correction of Work**

**Art. 9 – Insurance and Letter of Credit**

**Art. 20 – Limitation of Liability**

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A].*



100 YEARS OF ZACHRY

# Art. 12 – Warranty and Correction of Work

- Warranty of Work *(Article 12.1)*
- Assignment of Subcontractor Warranties *(12.1C)*
- Defect Correction Period of 18 Months *(Article 1.1)*
  - Extended Defect Correction Period of 30 Months *(Article 12.3B)*
- Waiver of Implied Warranties *(Article 12.5)*



100 YEARS OF ZACHRY

# FLNG EPC Contract



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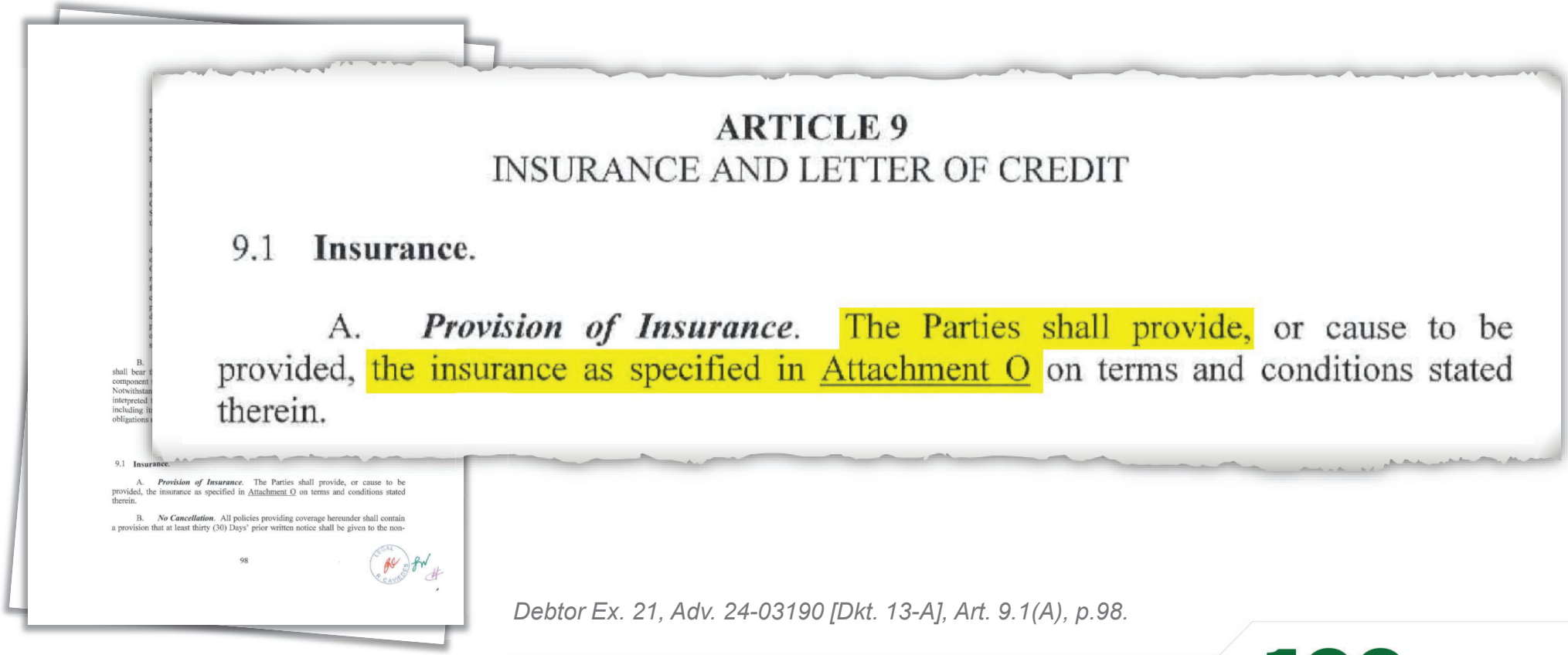
**Art. 20 – Limitation of Liability**

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A].*



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# Art. 9 – Insurance and Letter of Credit



ARTICLE 9
INSURANCE AND LETTER OF CREDIT

9.1 **Insurance.**

A. ***Provision of Insurance.*** The Parties shall provide, or cause to be provided, the insurance as specified in Attachment O on terms and conditions stated therein.

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 9.1(A), p.98.*

# Att. O – Insurance Requirements

## Contractor's Insurance

- CGL Coverage--$2MM *(¶ 1.A.2)*
- Umbrella Coverage--$150MM *(¶ 1.A.4)*
  - 3 Year Completed Operations Coverage
- Pollution Liability Insurance *(¶ 1.A.10)*
  - $75 MM Aggregate
- All Policies Waiver of Subrogation against Owner *(¶ 1.E)*

## Owner's Insurance

- Builders "All Risk" Coverage *(¶ 2.A.1)*
  - 125% of Max. Loss
  - Until Substantial Completion
- Property Insurance *(¶ 2.A.4)*
  - Amount in Owner Discretion
  - Waiver of Subrogation in favor of Contractors
- Waiver of Claims against Contractors *(¶ 2.G)*

*Debtor Ex. 22, Adv. 24-03190 [Dkt. 37]*



100 YEARS OF ZACHRY

# FLNG EPC Contract



*Execution Version*

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for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

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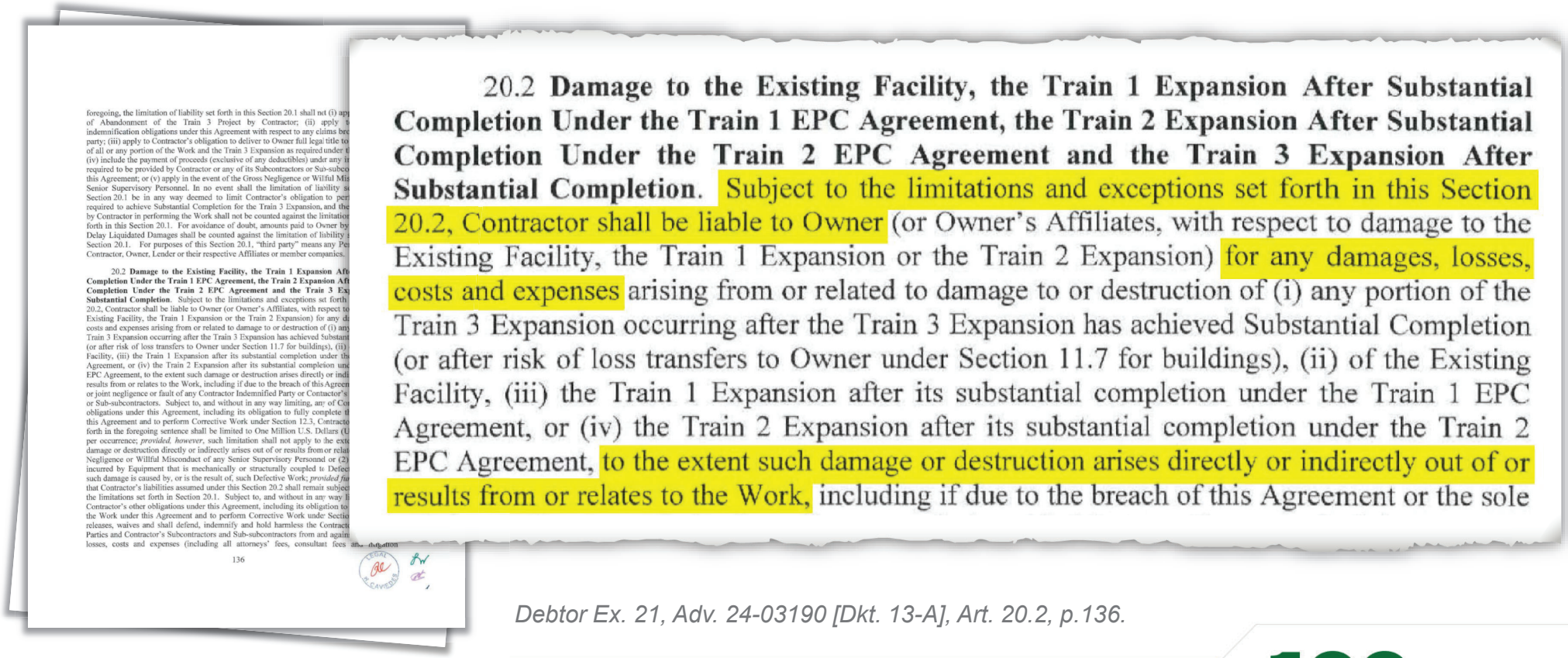
**Art. 20 – Limitation of Liability**

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A].*



100 YEARS OF ZACHRY

# Art. 20 – Limitation of Liability



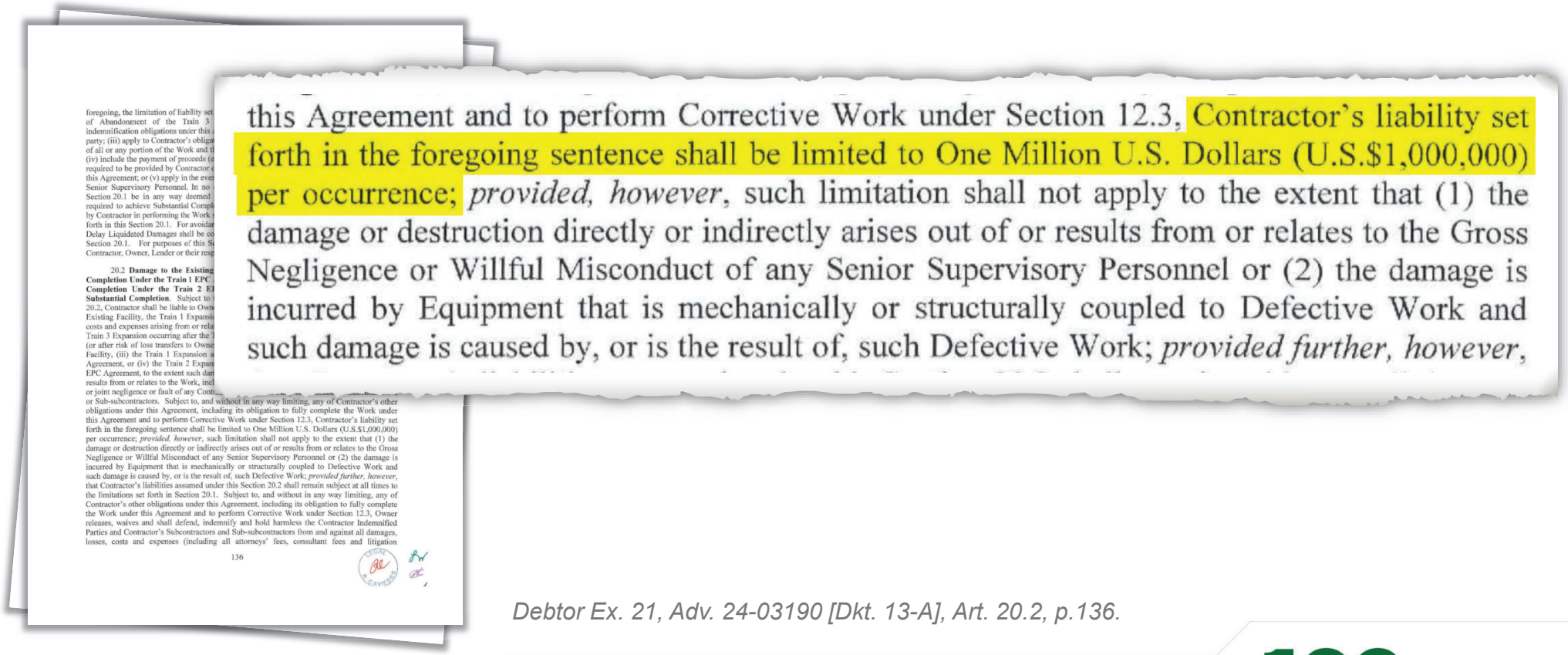
20.2 **Damage to the Existing Facility, the Train 1 Expansion After Substantial Completion Under the Train 1 EPC Agreement, the Train 2 Expansion After Substantial Completion Under the Train 2 EPC Agreement and the Train 3 Expansion After Substantial Completion.** Subject to the limitations and exceptions set forth in this Section 20.2, Contractor shall be liable to Owner (or Owner's Affiliates, with respect to damage to the Existing Facility, the Train 1 Expansion or the Train 2 Expansion) for any damages, losses, costs and expenses arising from or related to damage to or destruction of (i) any portion of the Train 3 Expansion occurring after the Train 3 Expansion has achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings), (ii) of the Existing Facility, (iii) the Train 1 Expansion after its substantial completion under the Train 1 EPC Agreement, or (iv) the Train 2 Expansion after its substantial completion under the Train 2 EPC Agreement, to the extent such damage or destruction arises directly or indirectly out of or results from or relates to the Work, including if due to the breach of this Agreement or the sole

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 20.2, p.136.*



100 YEARS OF ZACHRY

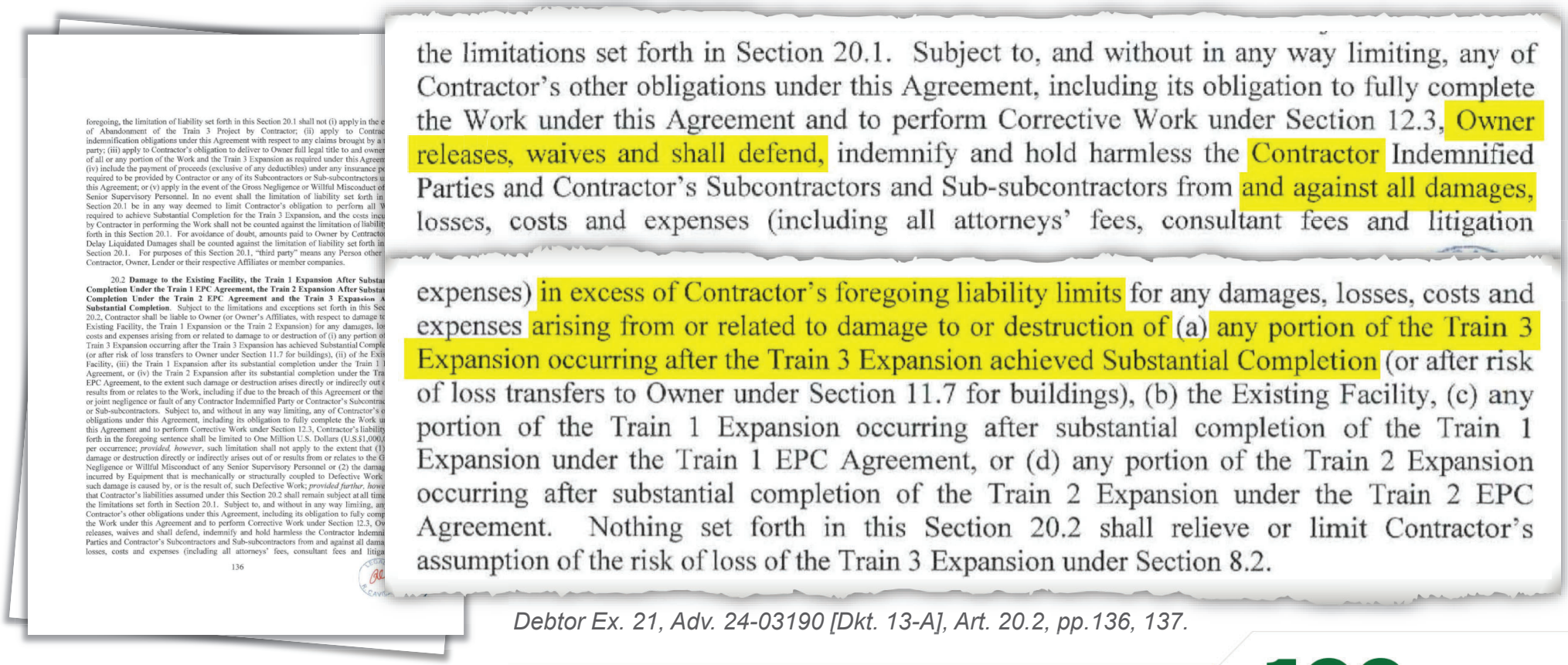
# Art. 20 – Limitation of Liability



this Agreement and to perform Corrective Work under Section 12.3, Contractor's liability set forth in the foregoing sentence shall be limited to One Million U.S. Dollars (U.S.$1,000,000) per occurrence; *provided, however*, such limitation shall not apply to the extent that (1) the damage or destruction directly or indirectly arises out of or results from or relates to the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel or (2) the damage is incurred by Equipment that is mechanically or structurally coupled to Defective Work and such damage is caused by, or is the result of, such Defective Work; *provided further, however*,

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 20.2, p.136.*

# Art. 20 – Limitation of Liability



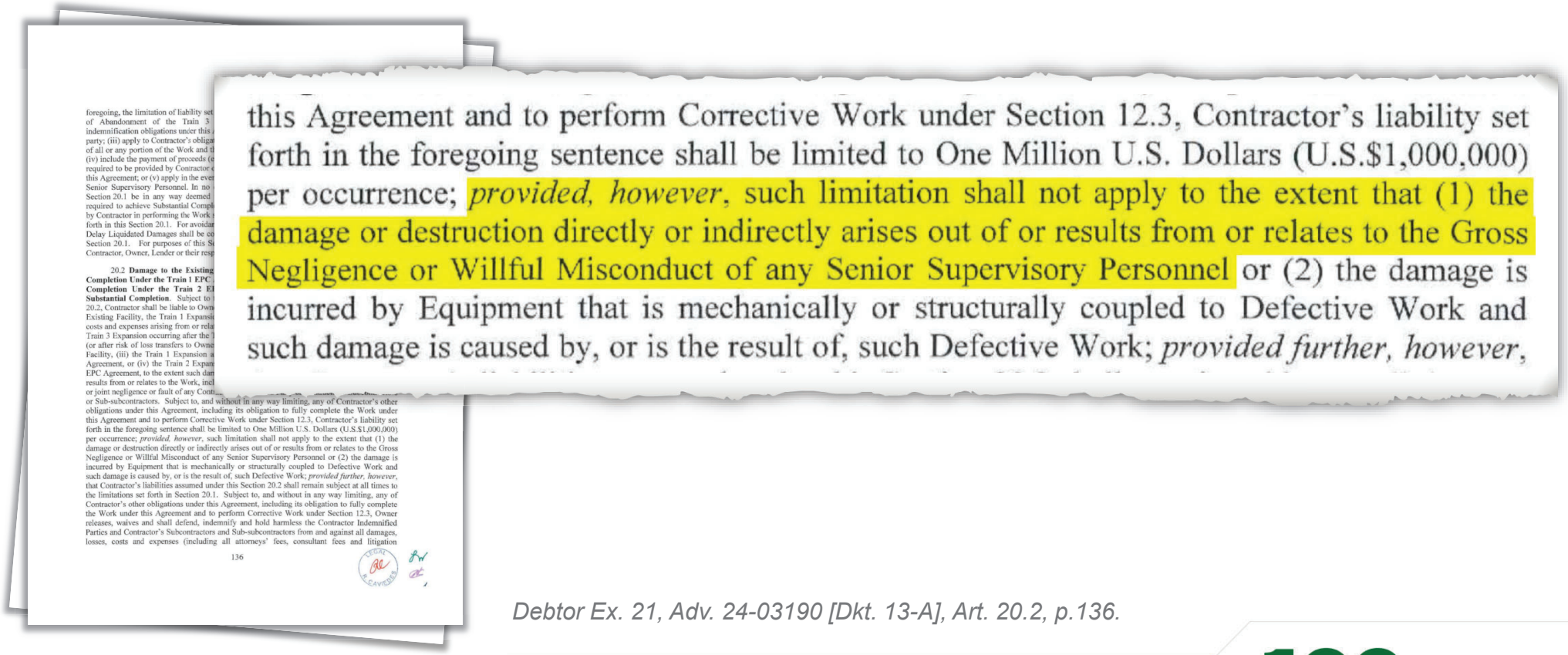
the limitations set forth in Section 20.1. Subject to, and without in any way limiting, any of Contractor's other obligations under this Agreement, including its obligation to fully complete the Work under this Agreement and to perform Corrective Work under Section 12.3, Owner releases, waives and shall defend, indemnify and hold harmless the Contractor Indemnified Parties and Contractor's Subcontractors and Sub-subcontractors from and against all damages, losses, costs and expenses (including all attorneys' fees, consultant fees and litigation expenses) in excess of Contractor's foregoing liability limits for any damages, losses, costs and expenses arising from or related to damage to or destruction of (a) any portion of the Train 3 Expansion occurring after the Train 3 Expansion achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings), (b) the Existing Facility, (c) any portion of the Train 1 Expansion occurring after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement, or (d) any portion of the Train 2 Expansion occurring after substantial completion of the Train 2 Expansion under the Train 2 EPC Agreement. Nothing set forth in this Section 20.2 shall relieve or limit Contractor's assumption of the risk of loss of the Train 3 Expansion under Section 8.2.

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 20.2, pp.136, 137.*



100 YEARS OF ZACHRY

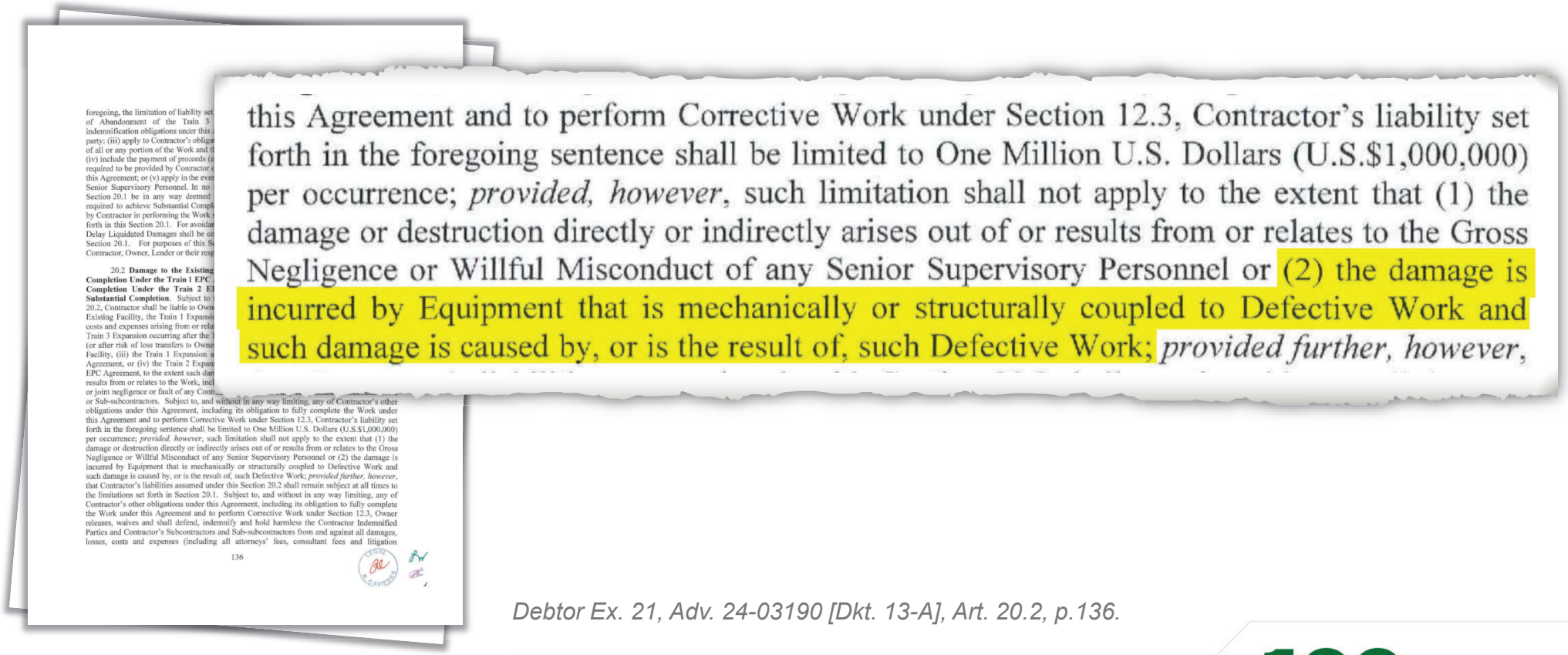
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*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 20.2, p.136.*

# Art. 20 – Limitation of Liability



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*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 20.2, p.136.*

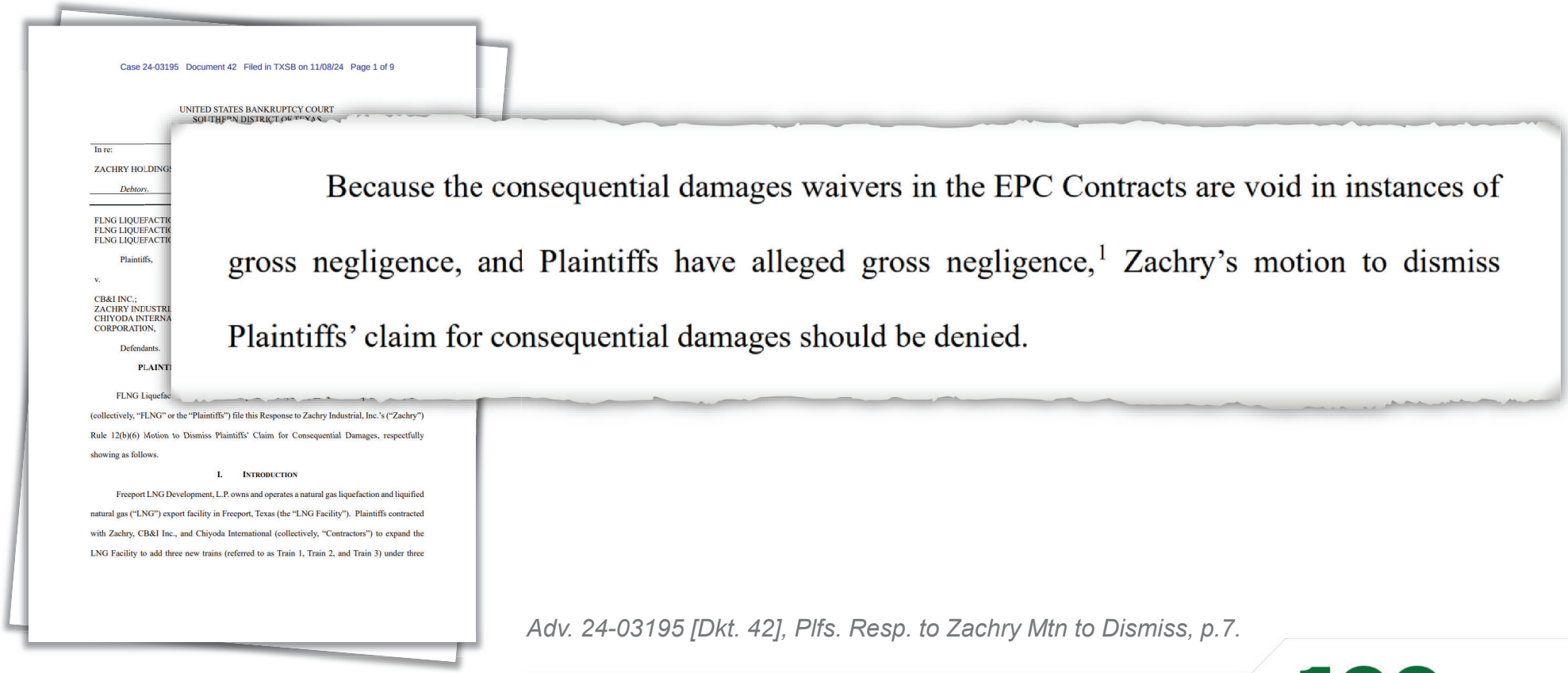
# Motion to Dismiss – Adv. No. 24-03195






100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195



Case 24-03195 Document 42 Filed in TXSB on 11/08/24 Page 1 of 9

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

In re:

ZACHRY HOLDINGS

*Debtors.*

FLNG LIQUEFACTIO
FLNG LIQUEFACTIO
FLNG LIQUEFACTIO

Plaintiffs,

v.

CB&I INC.;
ZACHRY INDUSTRI
CHIYODA INTERNA
CORPORATION,

Defendants.

PLAINT

FLNG Liquefac

(collectively, "FLNG" or the "Plaintiffs") file this Response to Zachry Industrial, Inc.'s ("Zachry") Rule 12(b)(6) Motion to Dismiss Plaintiffs' Claim for Consequential Damages, respectfully showing as follows.

I. INTRODUCTION

Freeport LNG Development, L.P. owns and operates a natural gas liquefaction and liquified natural gas ("LNG") export facility in Freeport, Texas (the "LNG Facility"). Plaintiffs contracted with Zachry, CB&I Inc., and Chiyoda International (collectively, "Contractors") to expand the LNG Facility to add three new trains (referred to as Train 1, Train 2, and Train 3) under three

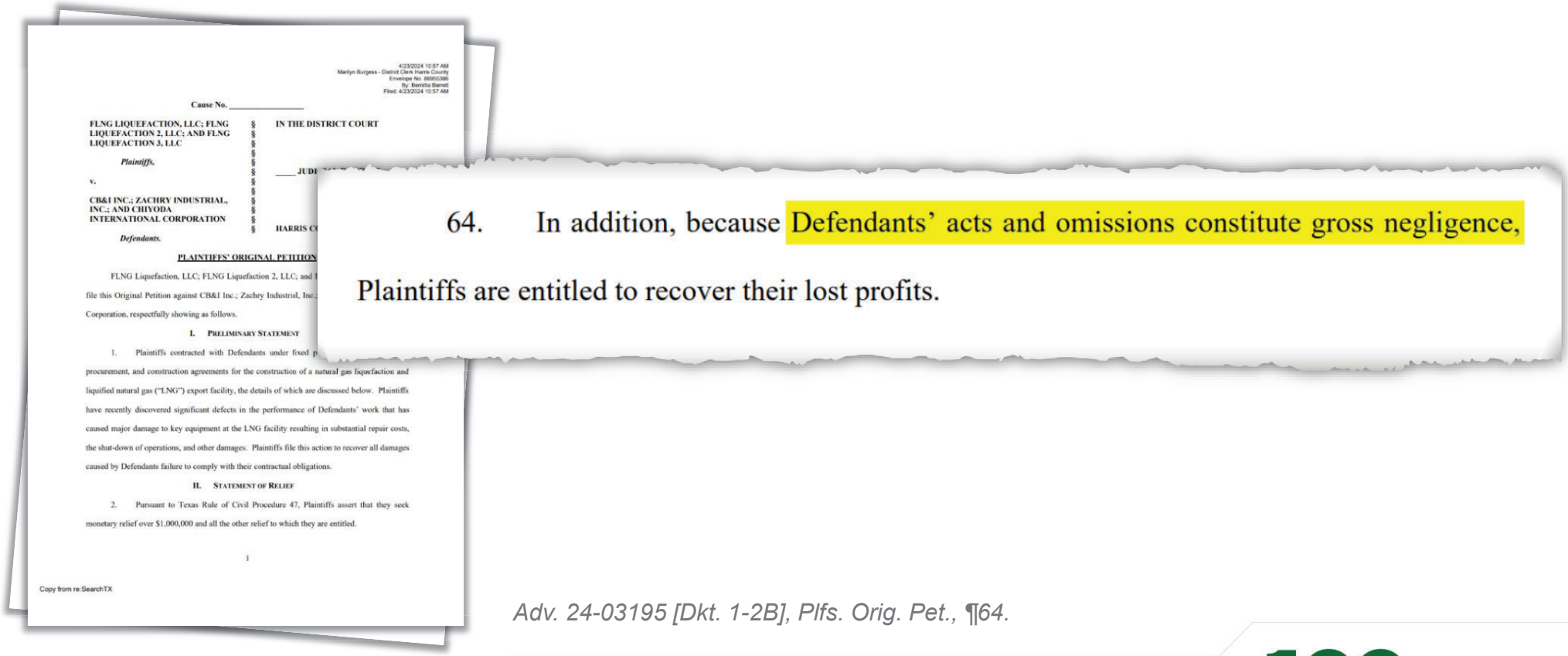
Because the consequential damages waivers in the EPC Contracts are void in instances of gross negligence, and Plaintiffs have alleged gross negligence,[1] Zachry's motion to dismiss Plaintiffs' claim for consequential damages should be denied.

*Adv. 24-03195 [Dkt. 42], Plfs. Resp. to Zachry Mtn to Dismiss, p.7.*



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195



4/23/2024 10:57 AM
Marilyn Burgess - District Clerk Harris County
Envelope No. 86955386
By: Benitta Barrett
Filed: 4/23/2024 10:57 AM

Cause No. _____

| | | |
|---|---|---|
| FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC<br><br>*Plaintiffs,*<br><br>v.<br><br>CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION<br><br>*Defendants.* | § | IN THE DISTRICT COURT<br><br>___ JUDI<br><br>HARRIS C |

**PLAINTIFFS' ORIGINAL PETITION**

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and
file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.;
Corporation, respectfully showing as follows.

**I. PRELIMINARY STATEMENT**

1. Plaintiffs contracted with Defendants under fixed p
procurement, and construction agreements for the construction of a natural gas liquefaction and liquified natural gas ("LNG") export facility, the details of which are discussed below. Plaintiffs have recently discovered significant defects in the performance of Defendants' work that has caused major damage to key equipment at the LNG facility resulting in substantial repair costs, the shut-down of operations, and other damages. Plaintiffs file this action to recover all damages caused by Defendants failure to comply with their contractual obligations.

**II. STATEMENT OF RELIEF**

2. Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs assert that they seek monetary relief over $1,000,000 and all the other relief to which they are entitled.

1

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64. In addition, because Defendants' acts and omissions constitute gross negligence, Plaintiffs are entitled to recover their lost profits.

*Adv. 24-03195 [Dkt. 1-2B], Plfs. Orig. Pet., ¶64.*



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195

(11) **"Gross negligence"** means an act or omission:

(A) which when viewed objectively from the standpoint of the actor at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and

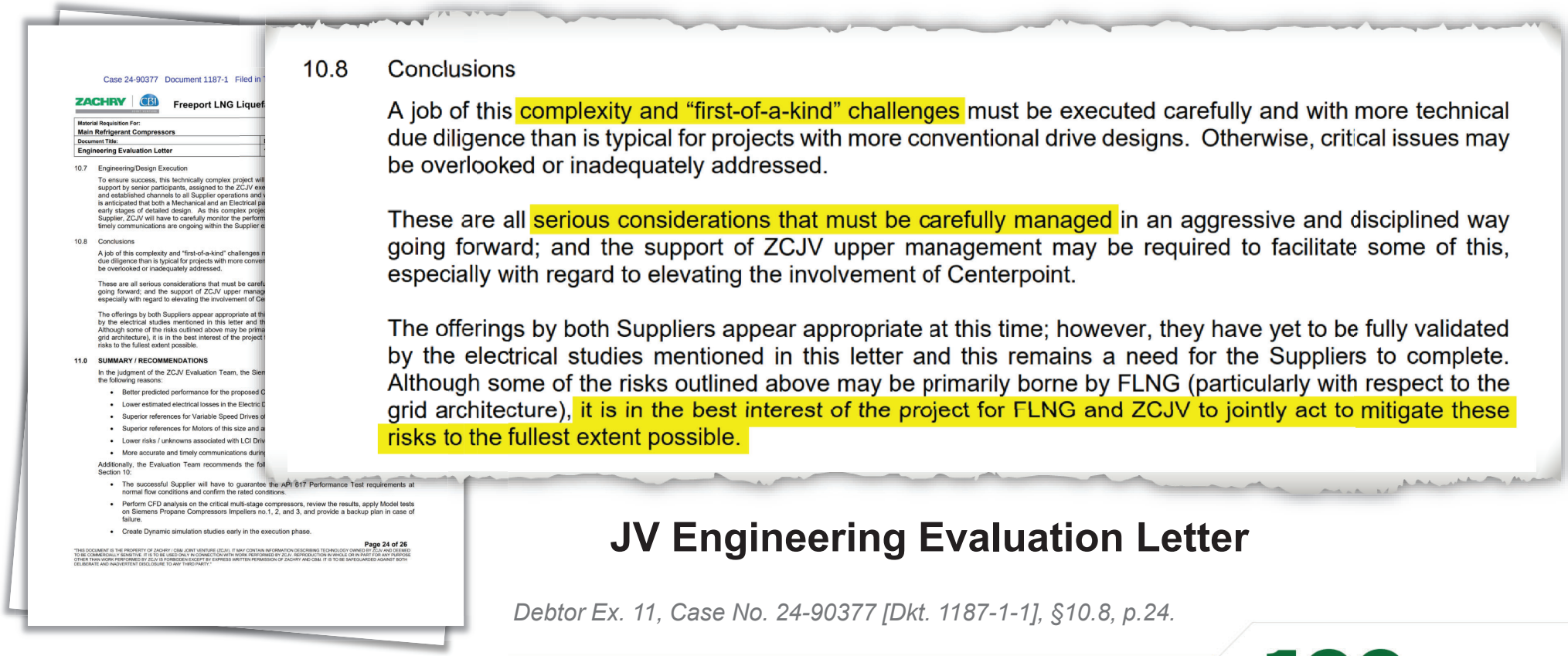
(B) of which the actor has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

Tex. Civ. Prac. & Rem. Code § 41.001(11).



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195



Case 24-90377 Document 1187-1 Filed in

ZACHRY | CBI Freeport LNG Liquef

Material Requisition For:
Main Refrigerant Compressors
Document Title:
Engineering Evaluation Letter

10.7 Engineering/Design Execution

To ensure success, this technically complex project will
support by senior participants, assigned to the ZCJV exe
and established channels to all Supplier operations and
is anticipated that both a Mechanical and an Electrical pa
early stages of detailed design. As this complex proje
Supplier, ZCJV will have to carefully monitor the perform
timely communications are ongoing within the Supplier e

10.8 Conclusions

A job of this complexity and "first-of-a-kind" challenges n
due diligence than is typical for projects with more conven
be overlooked or inadequately addressed.

These are all serious considerations that must be carefu
going forward; and the support of ZCJV upper manag
especially with regard to elevating the involvement of Ce

The offerings by both Suppliers appear appropriate at th
by the electrical studies mentioned in this letter and th
Although some of the risks outlined above may be prima
grid architecture), it is in the best interest of the project
risks to the fullest extent possible.

11.0 SUMMARY / RECOMMENDATIONS

In the judgment of the ZCJV Evaluation Team, the Siem
the following reasons:

- Better predicted performance for the proposed C
- Lower estimated electrical losses in the Electric D
- Superior references for Variable Speed Drives o
- Superior references for Motors of this size and a
- Lower risks / unknowns associated with LCI Driv
- More accurate and timely communications durin

Additionally, the Evaluation Team recommends the foll
Section 10:

- The successful Supplier will have to guarantee the API 617 Performance Test requirements at normal flow conditions and confirm the rated conditions.
- Perform CFD analysis on the critical multi-stage compressors, review the results, apply Model tests on Siemens Propane Compressors Impellers no.1, 2, and 3, and provide a backup plan in case of failure.
- Create Dynamic simulation studies early in the execution phase.

Page 24 of 26

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10.8 Conclusions

A job of this complexity and "first-of-a-kind" challenges must be executed carefully and with more technical due diligence than is typical for projects with more conventional drive designs. Otherwise, critical issues may be overlooked or inadequately addressed.

These are all serious considerations that must be carefully managed in an aggressive and disciplined way going forward; and the support of ZCJV upper management may be required to facilitate some of this, especially with regard to elevating the involvement of Centerpoint.

The offerings by both Suppliers appear appropriate at this time; however, they have yet to be fully validated by the electrical studies mentioned in this letter and this remains a need for the Suppliers to complete. Although some of the risks outlined above may be primarily borne by FLNG (particularly with respect to the grid architecture), it is in the best interest of the project for FLNG and ZCJV to jointly act to mitigate these risks to the fullest extent possible.

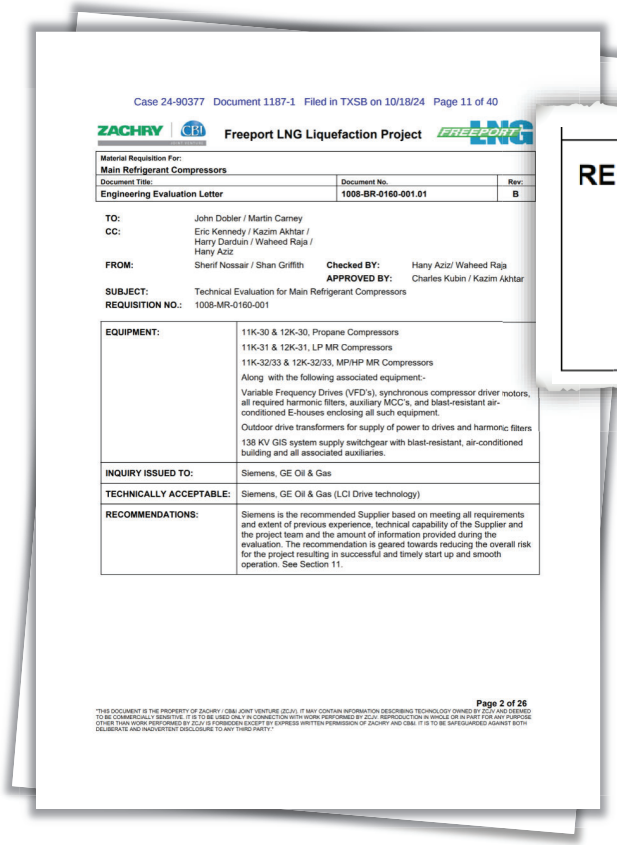
**JV Engineering Evaluation Letter**

*Debtor Ex. 11, Case No. 24-90377 [Dkt. 1187-1-1], §10.8, p.24.*



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195





ZACHRY | CBI — Freeport LNG Liquefaction Project — FREEPORT LNG

Material Requisition For:
Main Refrigerant Compressors

| Document Title: | Document No. | Rev: |
|---|---|---|
| Engineering Evaluation Letter | 1008-BR-0160-001.01 | B |

TO: John Dobler / Martin Carney
CC: Eric Kennedy / Kazim Akhtar / Harry Darduin / Waheed Raja / Hany Aziz
FROM: Sherif Nossair / Shan Griffith — Checked BY: Hany Aziz/ Waheed Raja — APPROVED BY: Charles Kubin / Kazim Akhtar
SUBJECT: Technical Evaluation for Main Refrigerant Compressors
REQUISITION NO.: 1008-MR-0160-001

| | |
|---|---|
| EQUIPMENT: | 11K-30 & 12K-30, Propane Compressors<br>11K-31 & 12K-31, LP MR Compressors<br>11K-32/33 & 12K-32/33, MP/HP MR Compressors<br>Along with the following associated equipment:-<br>Variable Frequency Drives (VFD's), synchronous compressor driver motors, all required harmonic filters, auxiliary MCC's, and blast-resistant air-conditioned E-houses enclosing all such equipment.<br>Outdoor drive transformers for supply of power to drives and harmonic filters<br>138 KV GIS system supply switchgear with blast-resistant, air-conditioned building and all associated auxiliaries. |
| INQUIRY ISSUED TO: | Siemens, GE Oil & Gas |
| TECHNICALLY ACCEPTABLE: | Siemens, GE Oil & Gas (LCI Drive technology) |
| RECOMMENDATIONS: | Siemens is the recommended Supplier based on meeting all requirements and extent of previous experience, technical capability of the Supplier and the project team and the amount of information provided during the evaluation. The recommendation is geared towards reducing the overall risk for the project resulting in successful and timely start up and smooth operation. See Section 11. |

Page 2 of 26

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| | |
|---|---|
| **RECOMMENDATIONS:** | Siemens is the recommended Supplier based on meeting all requirements and extent of previous experience, technical capability of the Supplier and the project team and the amount of information provided during the evaluation. The recommendation is geared towards reducing the overall risk for the project resulting in successful and timely start up and smooth operation. See Section 11. |

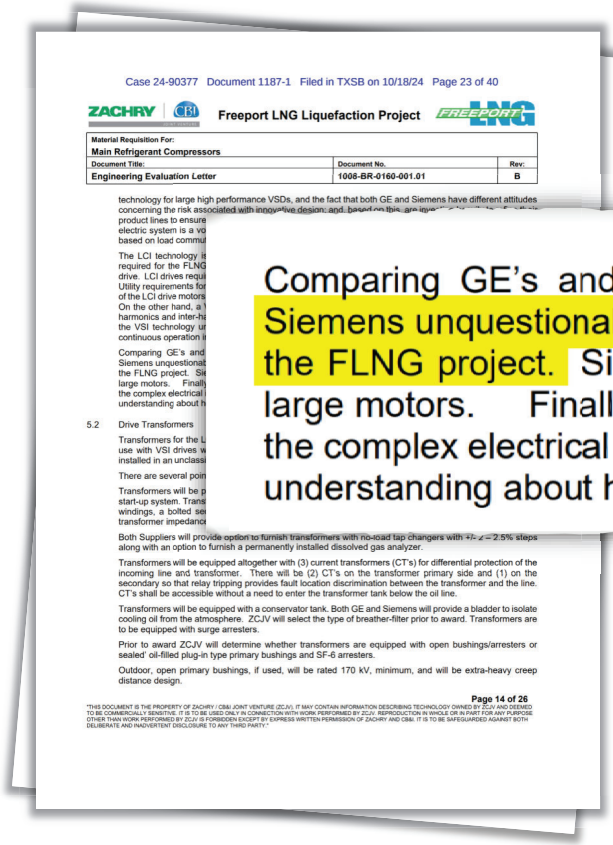
## JV Engineering Evaluation Letter

*Debtor Ex. 11, Case No. 24-90377 [Dkt. 1187-1-1], p.2.*



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195




ZACHRY | CB&I Freeport LNG Liquefaction Project

| Material Requisition For: Main Refrigerant Compressors | | |
|---|---|---|
| Document Title: Engineering Evaluation Letter | Document No. 1008-BR-0160-001.01 | Rev: B |

technology for large high performance VSDs, and the fact that both GE and Siemens have different attitudes concerning the risk associated with innovative design; and, based on this, are inv... product lines to ensure ... electric system is a vo... based on load commu...

The LCI technology is ... required for the FLNG ... drive. LCI drives requi... Utility requirements for ... of the LCI drive motors ... On the other hand, a ... harmonics and inter-ha... the VSI technology ur... continuous operation i...

Comparing GE's and ... Siemens unquestionab... the FLNG project. Si... large motors. Finally, ... the complex electrical ... understanding about h...

5.2 Drive Transformers

Transformers for the L... use with VSI drives w... installed in an unclassi...

There are several poin...

Transformers will be p... start-up system. Trans... windings, a bolted se... transformer impedanc...

Both Suppliers will provide option to furnish transformers with no-load tap changers with +/- 2 – 2.5% steps along with an option to furnish a permanently installed dissolved gas analyzer.

Transformers will be equipped altogether with (3) current transformers (CT's) for differential protection of the incoming line and transformer. There will be (2) CT's on the transformer primary side and (1) on the secondary so that relay tripping provides fault location discrimination between the transformer and the line. CT's shall be accessible without a need to enter the transformer tank below the oil line.

Transformers will be equipped with a conservator tank. Both GE and Siemens will provide a bladder to isolate cooling oil from the atmosphere. ZCJV will select the type of breather-filter prior to award. Transformers are to be equipped with surge arresters.

Prior to award ZCJV will determine whether transformers are equipped with open bushings/arresters or sealed' oil-filled plug-in type primary bushings and SF-6 arresters.

Outdoor, open primary bushings, if used, will be rated 170 kV, minimum, and will be extra-heavy creep distance design.



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**5.0 ELECTRICAL DRIVE SYSTEMS EVALUATION**

5.1 Overall Configuration and References

Comparing GE's and Siemens' lists of motor and drive references (Doc. No. 1008-BR-0160-001.10); Siemens unquestionably has the greater experience for large synchronous motors of the type proposed for the FLNG project. Siemens also has more experience applying both fully rated and soft-start drives with large motors. Finally, Siemens has consistently shown more technically rigorous and timely response on the complex electrical issues throughout the proposal phase along with a better organizational structure and understanding about how to integrate the challenging machinery arrangement of each drive string.

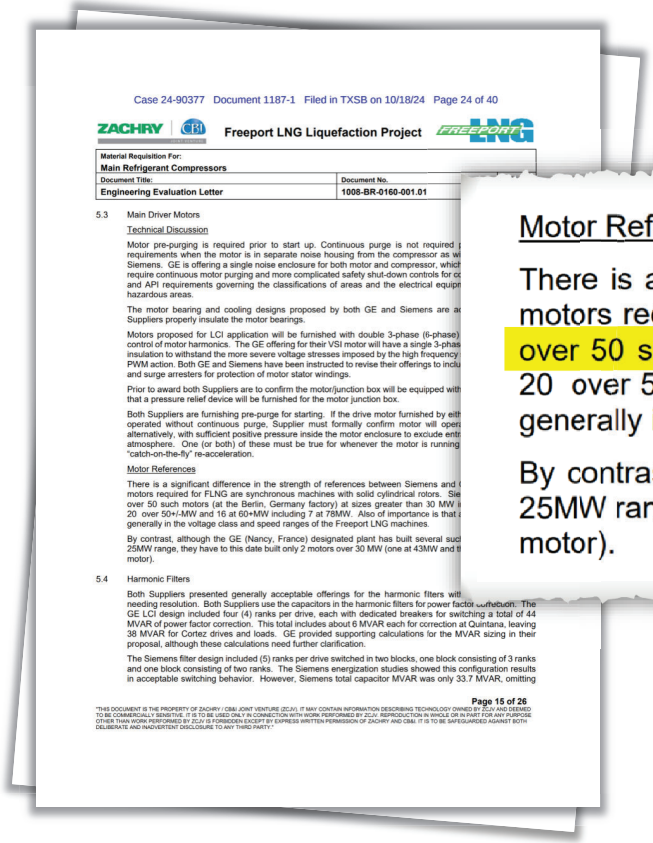
## JV Engineering Evaluation Letter

*Debtor Ex. 11, Case No. 24-90377 [Dkt. 1187-1-1], §5.1, p.14.*



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195




ZACHRY | CBI Freeport LNG Liquefaction Project FREEPORT LNG

Material Requisition For:
Main Refrigerant Compressors

| Document Title: | Document No. |
|---|---|
| Engineering Evaluation Letter | 1008-BR-0160-001.01 |

5.3 Main Driver Motors

Technical Discussion

Motor pre-purging is required prior to start up. Continuous purge is not required
requirements when the motor is in separate noise housing from the compressor as w
Siemens. GE is offering a single noise enclosure for both motor and compressor, whic
require continuous motor purging and more complicated safety shut-down controls for c
and API requirements governing the classifications of areas and the electrical equipr
hazardous areas.

The motor bearing and cooling designs proposed by both GE and Siemens are a
Suppliers properly insulate the motor bearings.

Motors proposed for LCI application will be furnished with double 3-phase (6-phase)
control of motor harmonics. The GE offering for their VSI motor will have a single 3-phas
insulation to withstand the more severe voltage stresses imposed by the high frequency
PWM action. Both GE and Siemens have been instructed to revise their offerings to inclu
and surge arresters for protection of motor stator windings.

Prior to award both Suppliers are to confirm the motor/junction box will be equipped with
that a pressure relief device will be furnished for the motor junction box.

Both Suppliers are furnishing pre-purge for starting. If the drive motor furnished by eith
operated without continuous purge, Supplier must formally confirm motor will oper
alternatively, with sufficient positive pressure inside the motor enclosure to exclude entr
atmosphere. One (or both) of these must be true for whenever the motor is running
"catch-on-the-fly" re-acceleration.

Motor References

There is a significant difference in the strength of references between Siemens and
motors required for FLNG are synchronous machines with solid cylindrical rotors. Sie
over 50 such motors (at the Berlin, Germany factory) at sizes greater than 30 MW
20 over 50+/-MW and 16 at 60+MW including 7 at 78MW. Also of importance is that
generally in the voltage class and speed ranges of the Freeport LNG machines.

By contrast, although the GE (Nancy, France) designated plant has built several suc
25MW range, they have to this date built only 2 motors over 30 MW (one at 43MW and
motor).

5.4 Harmonic Filters

Both Suppliers presented generally acceptable offerings for the harmonic filters with
needing resolution. Both Suppliers use the capacitors in the harmonic filters for power factor correction. The
GE LCI design included four (4) ranks per drive, each with dedicated breakers for switching a total of 44
MVAR of power factor correction. This total includes about 6 MVAR each for correction at Quintana, leaving
38 MVAR for Cortez drives and loads. GE provided supporting calculations for the MVAR sizing in their
proposal, although these calculations need further clarification.

The Siemens filter design included (5) ranks per drive switched in two blocks, one block consisting of 3 ranks
and one block consisting of two ranks. The Siemens energization studies showed this configuration results
in acceptable switching behavior. However, Siemens total capacitor MVAR was only 33.7 MVAR, omitting

Page 15 of 26

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5.3 Main Driver Motors

Motor References

There is a significant difference in the strength of references between Siemens and GE for motors. The motors required for FLNG are synchronous machines with solid cylindrical rotors. Siemens has built well over 50 such motors (at the Berlin, Germany factory) at sizes greater than 30 MW including more than 20 over 50+/-MW and 16 at 60+MW including 7 at 78MW. Also of importance is that all these motors are generally in the voltage class and speed ranges of the Freeport LNG machines.

By contrast, although the GE (Nancy, France) designated plant has built several such motors in the 20-25MW range, they have to this date built only 2 motors over 30 MW (one at 43MW and the 61MW test stand motor).

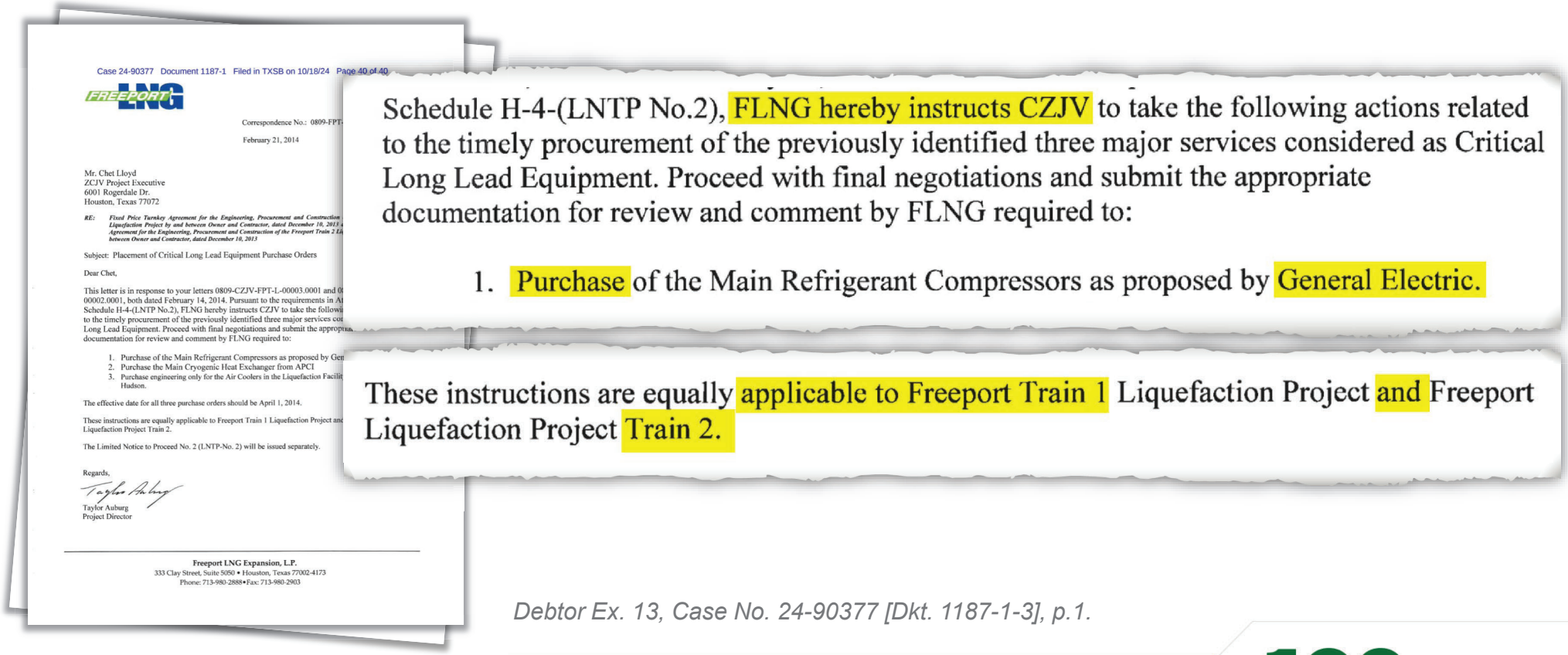
## JV Engineering Evaluation Letter

*Debtor Ex. 11, Case No. 24-90377 [Dkt. 1187-1-1], §5.3, p.15.*



100 YEARS OF ZACHRY

# Motion to Dismiss – Adv. No. 24-03195



Case 24-90377 Document 1187-1 Filed in TXSB on 10/18/24 Page 40 of 40

FREEPORT LNG

Correspondence No.: 0809-FPT-

February 21, 2014

Mr. Chet Lloyd
ZCJV Project Executive
6001 Rogerdale Dr.
Houston, Texas 77072

*RE: Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction Liquefaction Project by and between Owner and Contractor, dated December 10, 2013 Agreement for the Engineering, Procurement and Construction of the Freeport Train 2 Li between Owner and Contractor, dated December 10, 2013*

Subject: Placement of Critical Long Lead Equipment Purchase Orders

Dear Chet,

This letter is in response to your letters 0809-CZJV-FPT-L-00003.0001 and 0 00002.0001, both dated February 14, 2014. Pursuant to the requirements in A Schedule H-4-(LNTP No.2), FLNG hereby instructs CZJV to take the followi to the timely procurement of the previously identified three major services co Long Lead Equipment. Proceed with final negotiations and submit the appropri documentation for review and comment by FLNG required to:

1. Purchase of the Main Refrigerant Compressors as proposed by Gen
2. Purchase the Main Cryogenic Heat Exchanger from APCI
3. Purchase engineering only for the Air Coolers in the Liquefaction Facilit Hudson.

The effective date for all three purchase orders should be April 1, 2014.

These instructions are equally applicable to Freeport Train 1 Liquefaction Project and Liquefaction Project Train 2.

The Limited Notice to Proceed No. 2 (LNTP-No. 2) will be issued separately.

Regards,

Taylor Auburg
Project Director

Freeport LNG Expansion, L.P.
333 Clay Street, Suite 5050 • Houston, Texas 77002-4173
Phone: 713-980-2888 • Fax: 713-980-2903

Schedule H-4-(LNTP No.2), FLNG hereby instructs CZJV to take the following actions related to the timely procurement of the previously identified three major services considered as Critical Long Lead Equipment. Proceed with final negotiations and submit the appropriate documentation for review and comment by FLNG required to:

1. Purchase of the Main Refrigerant Compressors as proposed by General Electric.

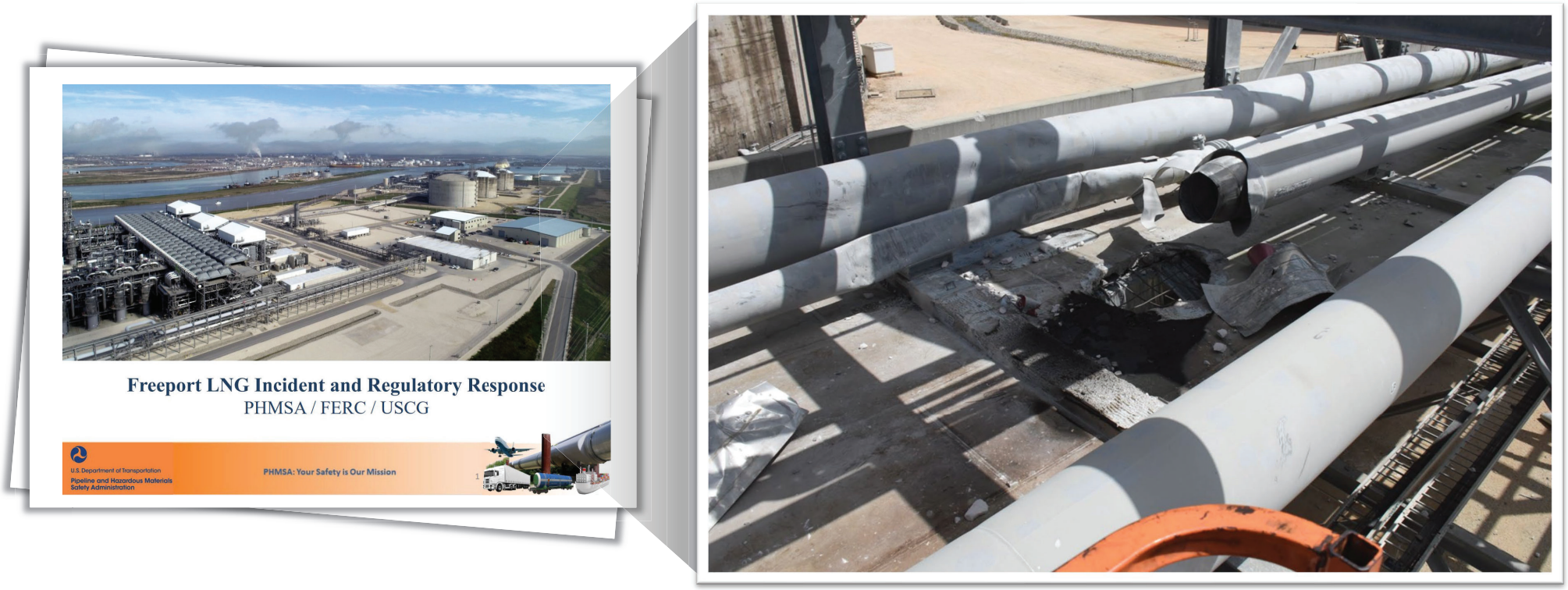
These instructions are equally applicable to Freeport Train 1 Liquefaction Project and Freeport Liquefaction Project Train 2.

*Debtor Ex. 13, Case No. 24-90377 [Dkt. 1187-1-3], p.1.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190

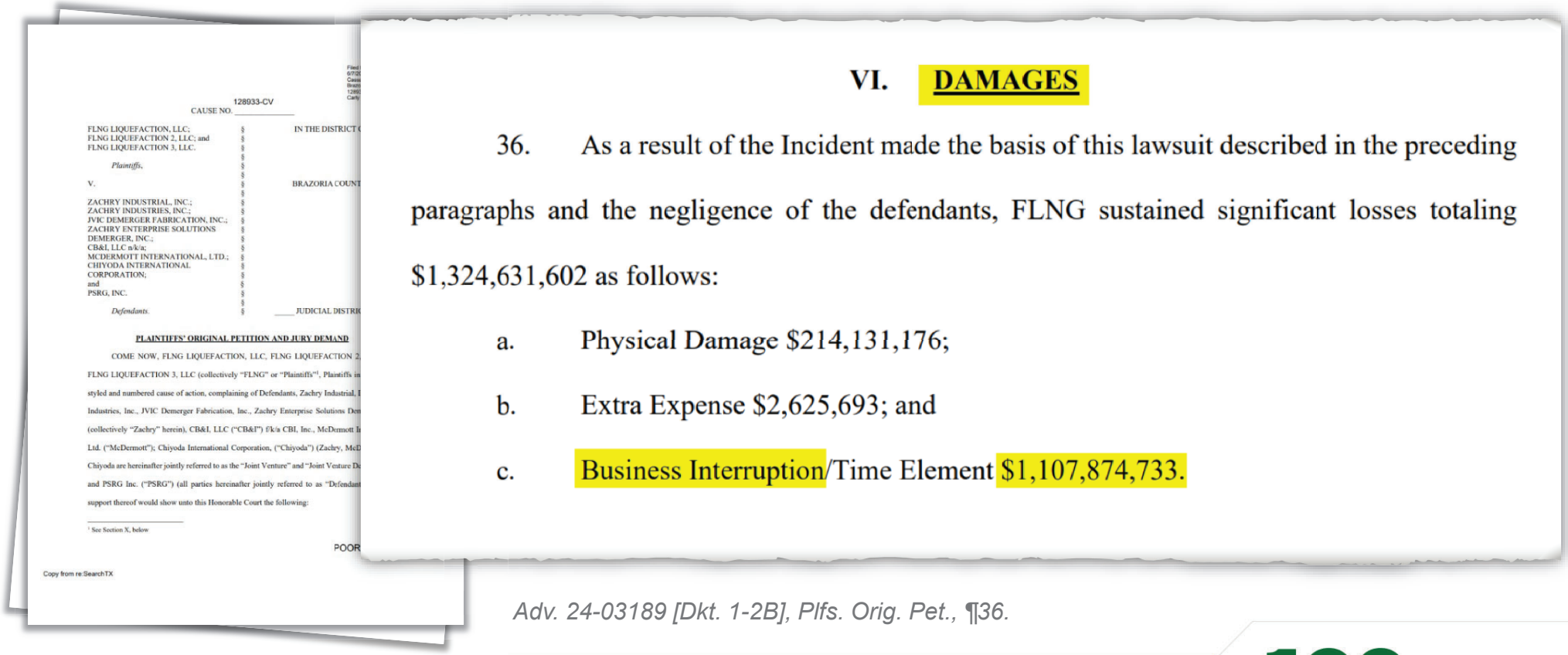



*Debtor Ex. 5, Case No. 24-90377 [Dkt. 1188-1-4], pp.315, 326.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190



128933-CV
CAUSE NO. _____

FLNG LIQUEFACTION, LLC;
FLNG LIQUEFACTION 2, LLC; and
FLNG LIQUEFACTION 3, LLC.

*Plaintiffs,*

V.

ZACHRY INDUSTRIAL, INC.;
ZACHRY INDUSTRIES, INC.;
JVIC DEMERGER FABRICATION, INC.;
ZACHRY ENTERPRISE SOLUTIONS
DEMERGER, INC.;
CB&I, LLC n/k/a;
MCDERMOTT INTERNATIONAL, LTD.;
CHIYODA INTERNATIONAL
CORPORATION;
and
PSRG, INC.

*Defendants.*

IN THE DISTRICT

BRAZORIA COUNT

JUDICIAL DISTRI

**PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND**

COME NOW, FLNG LIQUEFACTION, LLC, FLNG LIQUEFACTION 2,
FLNG LIQUEFACTION 3, LLC (collectively "FLNG" or "Plaintiffs"[1], Plaintiffs in
styled and numbered cause of action, complaining of Defendants, Zachry Industrial,
Industries, Inc., JVIC Demerger Fabrication, Inc., Zachry Enterprise Solutions Dem
(collectively "Zachry" herein), CB&I, LLC ("CB&I") f/k/a CBI, Inc., McDermott I
Ltd. ("McDermott"); Chiyoda International Corporation, ("Chiyoda") (Zachry, McD
Chiyoda are hereinafter jointly referred to as the "Joint Venture" and "Joint Vesture De
and PSRG Inc. ("PSRG") (all parties hereinafter jointly referred to as "Defendant
support thereof would show unto this Honorable Court the following:

[1] See Section X, below

POOR

Copy from re:SearchTX

## VI. DAMAGES

36. As a result of the Incident made the basis of this lawsuit described in the preceding paragraphs and the negligence of the defendants, FLNG sustained significant losses totaling $1,324,631,602 as follows:

a. Physical Damage $214,131,176;

b. Extra Expense $2,625,693; and

c. Business Interruption/Time Element $1,107,874,733.

*Adv. 24-03189 [Dkt. 1-2B], Plfs. Orig. Pet., ¶36.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190

**OCT. 2021**
Corrective Work Amendment



Correspondence No.: 0000-FPT-CZJV-L-01261.0001

October 28, 2021

CB&I LLC
Zachry Industrial, Inc.
Chiyoda International Corp.
c/o Zachry Industrial, Inc.
527 Logwood Avenue
San Antonio, TX 78221
Attn: Mark Hester

RE: **Fixed Price Separated Turnkey Agreement for the Engineering, Procurement, and Construction of the Freeport Train 2 ("T2") Liquefaction Project by and between FLNG Liquefaction 3, LLC (FLIQ3), and CB&I LLC (formerly CB&I, Inc.), Zachry Industrial, Inc., Chiyoda International Corp. (CB&I, Zachry, and Chiyoda collectively, "Contractor") (the "T2 EPC")**

**Subject: End of Train 2 Initial Defect Correction Period**

Dear Mark,

This letter, once signed by FLIQ3 ("Owner") and accepted and acknowledged by Contractor, shall constitute the "Letter Agreement" as such term is used herein and shall constitute a binding agreement by the Parties addressing the remaining open Defects at the end of the initial Defect Correction Period (November 1, 2021) pursuant to the T2 EPC. Capitalized terms not defined herein shall have the meaning set forth in the T2 EPC.

As Contractor is aware, certain Defective Work items identified by Freeport LNG Expansion, L.P. (on behalf of Owner) ("FLEX") under the T2 EPC are not anticipated to be completed until after the end of the initial Defect Correction Period. Currently known Defective Work items that may be completed after the initial Defect Correction Period are identified in Exhibits A and B attached hereto and incorporated herein (the "**T2 Defects**"). Contractor shall complete the T2 Defects as soon as practicable after execution of this Letter Agreement but prior to the end of the initial Defect Correction Period (such Defective Work items, when combined with those identified in Exhibits A and B, being the "**T2 Defects**"). While FLEX appreciates Contractor's continued efforts to remedy the outstanding T2 Defects, FLEX requires that Owner retain adequate performance and payment security via (i) the Retention Letters of Credit, and (ii) Retainage to ensure that the remaining T2 Defects are successfully completed.

With respect to the T2 Defects that are listed in Exhibit B, Contractor has requested to close out those

* As used herein, the term "initial" in relation to the defined term "Defect Correction Period" shall be used to distinguish between the period commencing upon Substantial Completion and ending eighteen (18) months thereafter and any extension of the Defect Correction Period pursuant to Section 12.3(b) of the T2 EPC, with respect to any Corrective Work performed. In that regard, it is synonymous with the use of the term "original" in the portion of Section 12.3B of the T2 EPC.

Freeport LNG Expansion, L.P.
333 Clay Street, Suite 5050 • Houston, Texas 77002-4173
Phone: 713-980-2000•Fax: 713-980-2985

*Adv. 24-03190 [Dkt. 51-1].*

**JUN. 2022**
Pipe Incident



*Debtor Ex. 5, Case No. 24-90377 [Dkt. 1188-1-4], p.326.*

**NOV. 2022**
"The Defect Correction Period for such Corrective Work shall be extended for an **additional twelve (12) months**."
EPC Art. 12.3(b)

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A].*

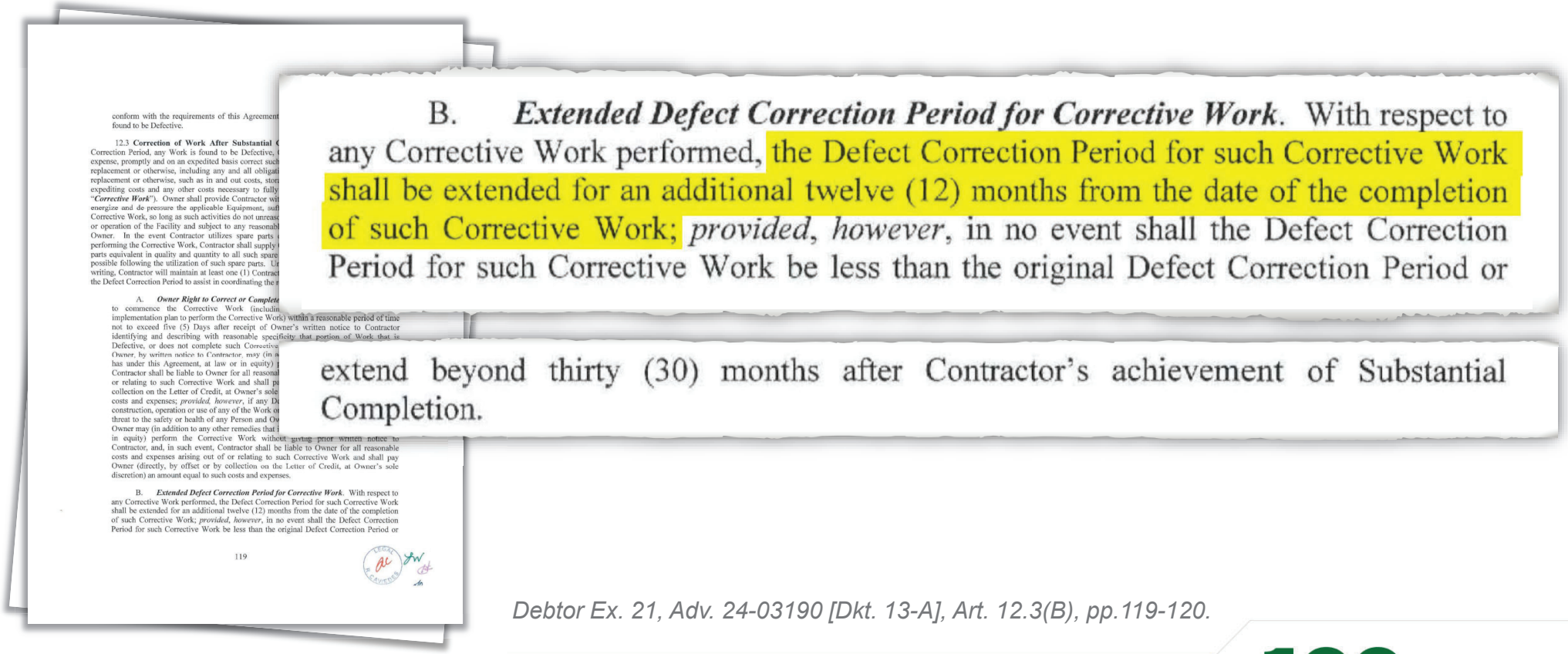
**OCT. 2021** **JUN. 2022** **NOV. 2022**

## Defect Correction Period Timeline



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190



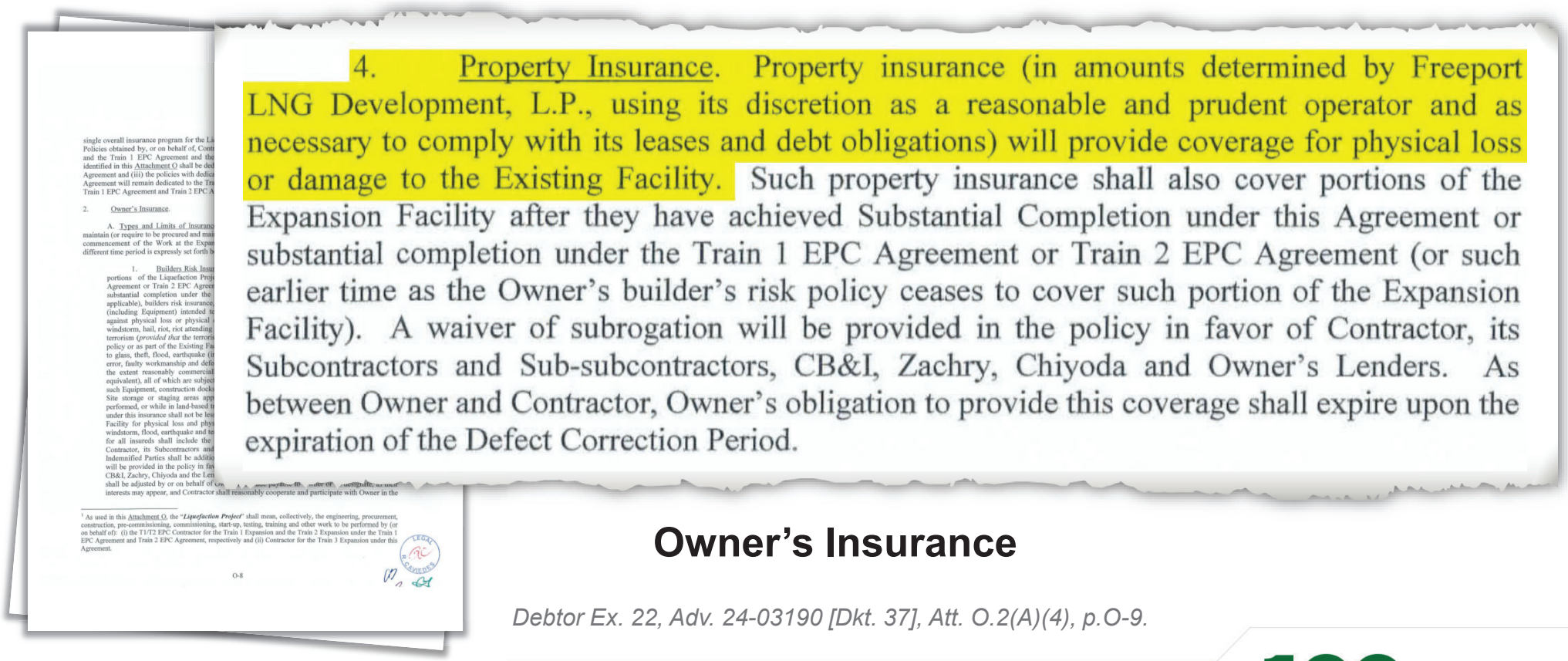
B. ***Extended Defect Correction Period for Corrective Work***. With respect to any Corrective Work performed, the Defect Correction Period for such Corrective Work shall be extended for an additional twelve (12) months from the date of the completion of such Corrective Work; *provided, however*, in no event shall the Defect Correction Period for such Corrective Work be less than the original Defect Correction Period or extend beyond thirty (30) months after Contractor's achievement of Substantial Completion.

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 12.3(B), pp.119-120.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190



4. Property Insurance. Property insurance (in amounts determined by Freeport LNG Development, L.P., using its discretion as a reasonable and prudent operator and as necessary to comply with its leases and debt obligations) will provide coverage for physical loss or damage to the Existing Facility. Such property insurance shall also cover portions of the Expansion Facility after they have achieved Substantial Completion under this Agreement or substantial completion under the Train 1 EPC Agreement or Train 2 EPC Agreement (or such earlier time as the Owner's builder's risk policy ceases to cover such portion of the Expansion Facility). A waiver of subrogation will be provided in the policy in favor of Contractor, its Subcontractors and Sub-subcontractors, CB&I, Zachry, Chiyoda and Owner's Lenders. As between Owner and Contractor, Owner's obligation to provide this coverage shall expire upon the expiration of the Defect Correction Period.

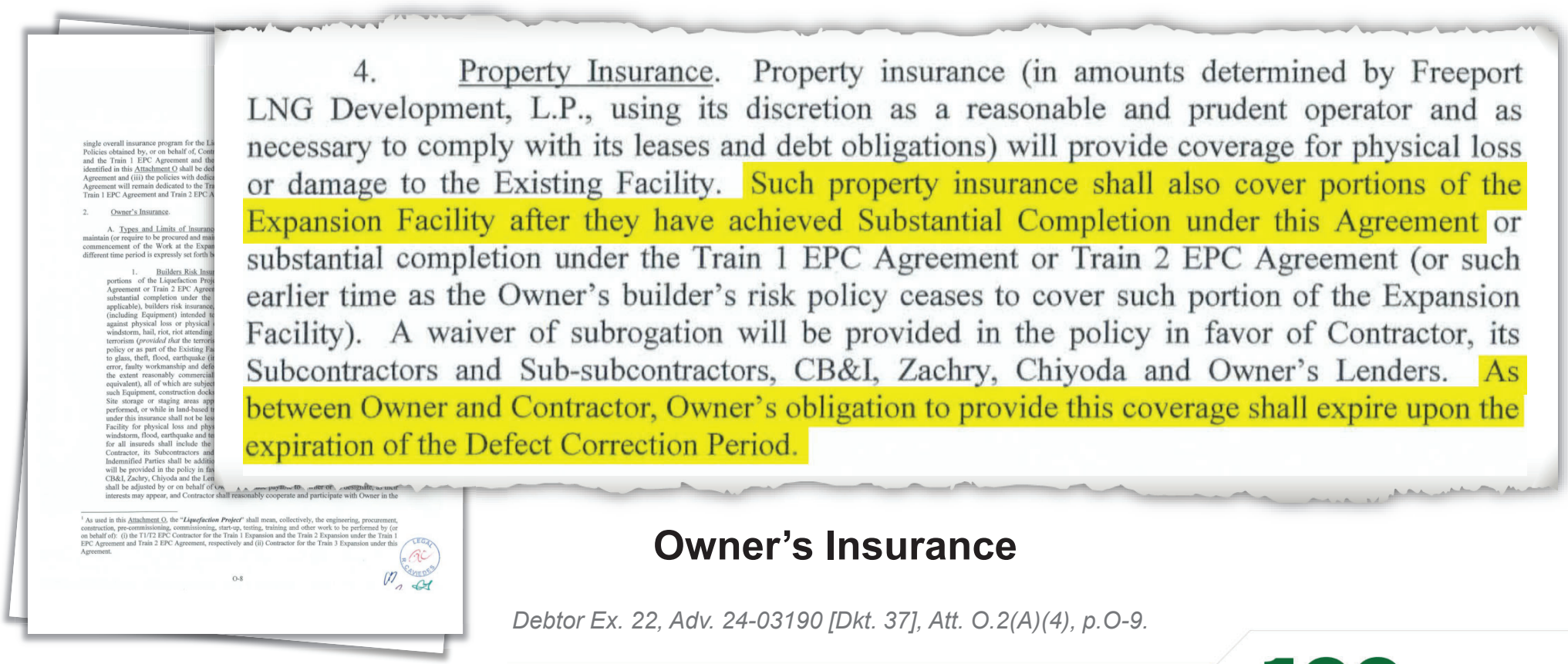
## Owner's Insurance

*Debtor Ex. 22, Adv. 24-03190 [Dkt. 37], Att. O.2(A)(4), p.O-9.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190



4. Property Insurance. Property insurance (in amounts determined by Freeport LNG Development, L.P., using its discretion as a reasonable and prudent operator and as necessary to comply with its leases and debt obligations) will provide coverage for physical loss or damage to the Existing Facility. Such property insurance shall also cover portions of the Expansion Facility after they have achieved Substantial Completion under this Agreement or substantial completion under the Train 1 EPC Agreement or Train 2 EPC Agreement (or such earlier time as the Owner's builder's risk policy ceases to cover such portion of the Expansion Facility). A waiver of subrogation will be provided in the policy in favor of Contractor, its Subcontractors and Sub-subcontractors, CB&I, Zachry, Chiyoda and Owner's Lenders. As between Owner and Contractor, Owner's obligation to provide this coverage shall expire upon the expiration of the Defect Correction Period.

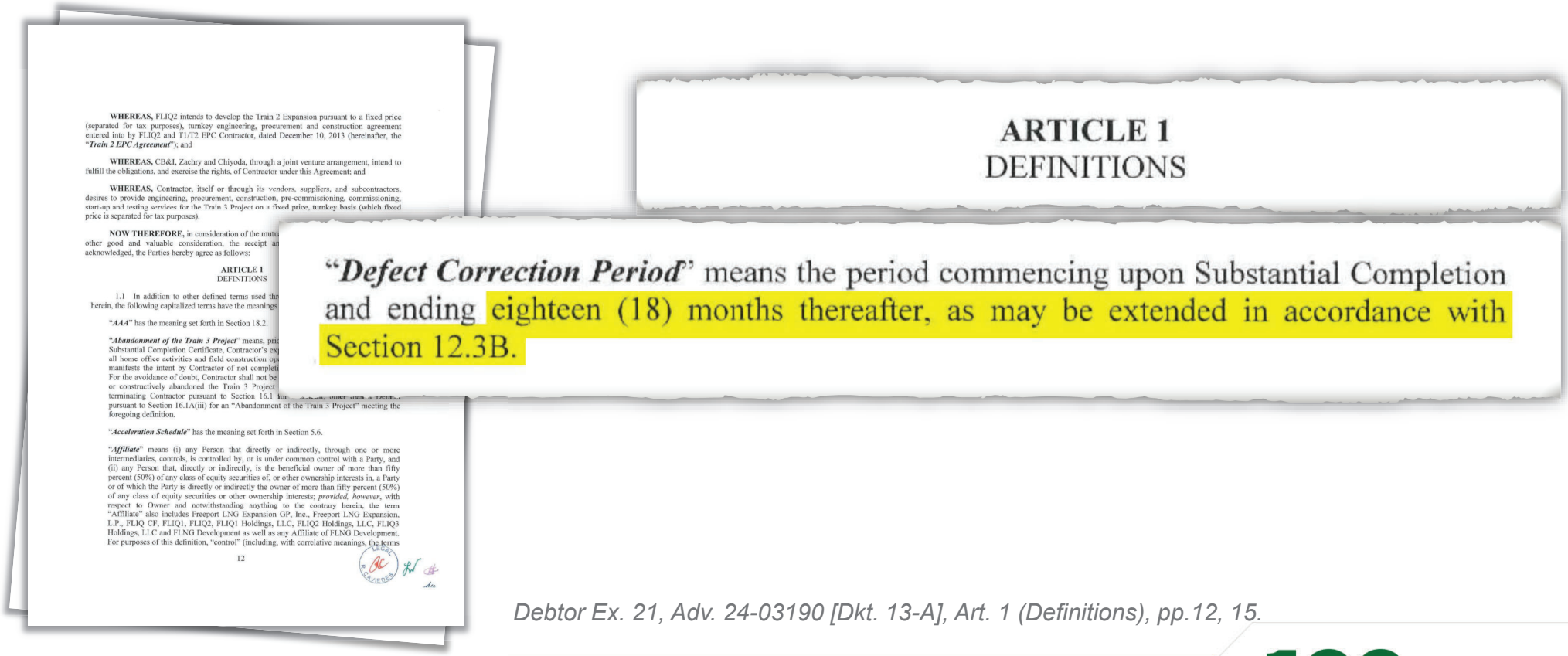
## Owner's Insurance

*Debtor Ex. 22, Adv. 24-03190 [Dkt. 37], Att. O.2(A)(4), p.O-9.*



100 YEARS OF ZACHRY

# Art. 1 Definition – "Defect Correction Period"



**WHEREAS,** FLIQ2 intends to develop the Train 2 Expansion pursuant to a fixed price (separated for tax purposes), turnkey engineering, procurement and construction agreement entered into by FLIQ2 and T1/T2 EPC Contractor, dated December 10, 2013 (hereinafter, the "***Train 2 EPC Agreement***"); and

**WHEREAS,** CB&I, Zachry and Chiyoda, through a joint venture arrangement, intend to fulfill the obligations, and exercise the rights, of Contractor under this Agreement; and

**WHEREAS,** Contractor, itself or through its vendors, suppliers, and subcontractors, desires to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for the Train 3 Project on a fixed price, turnkey basis (which fixed price is separated for tax purposes).

**NOW THEREFORE,** in consideration of the mutu
other good and valuable consideration, the receipt a
acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used th
herein, the following capitalized terms have the meanings

"***AAA***" has the meaning set forth in Section 18.2.

"***Abandonment of the Train 3 Project***" means, pri
Substantial Completion Certificate, Contractor's ex
all home office activities and field construction op
manifests the intent by Contractor of not completi
For the avoidance of doubt, Contractor shall not be
or constructively abandoned the Train 3 Project
terminating Contractor pursuant to Section 16.1 for
pursuant to Section 16.1A(iii) for an "Abandonment of the Train 3 Project" meeting the foregoing definition.

"***Acceleration Schedule***" has the meaning set forth in Section 5.6.

"***Affiliate***" means (i) any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a Party, and (ii) any Person that, directly or indirectly, is the beneficial owner of more than fifty percent (50%) of any class of equity securities of, or other ownership interests in, a Party or of which the Party is directly or indirectly the owner of more than fifty percent (50%) of any class of equity securities or other ownership interests; *provided, however*, with respect to Owner and notwithstanding anything to the contrary herein, the term "Affiliate" also includes Freeport LNG Expansion GP, Inc., Freeport LNG Expansion, L.P., FLIQ CF, FLIQ1, FLIQ2, FLIQ1 Holdings, LLC, FLIQ2 Holdings, LLC, FLIQ3 Holdings, LLC and FLNG Development as well as any Affiliate of FLNG Development. For purposes of this definition, "control" (including, with correlative meanings, the terms

12

ARTICLE 1
DEFINITIONS

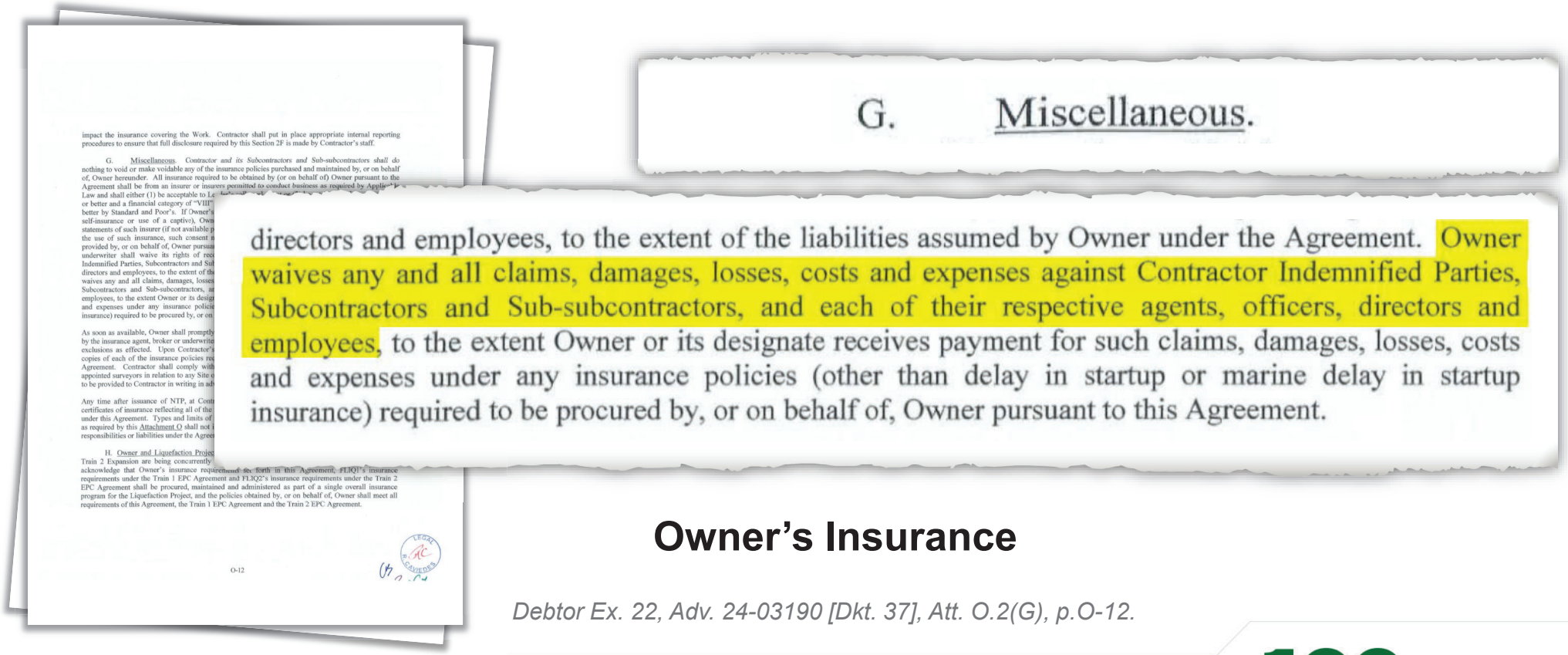
"***Defect Correction Period***" means the period commencing upon Substantial Completion and ending eighteen (18) months thereafter, as may be extended in accordance with Section 12.3B.

*Debtor Ex. 21, Adv. 24-03190 [Dkt. 13-A], Art. 1 (Definitions), pp.12, 15.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190



impact the insurance covering the Work. Contractor shall put in place appropriate internal reporting procedures to ensure that full disclosure required by this Section 2F is made by Contractor's staff.

G. Miscellaneous. Contractor and its Subcontractors and Sub-subcontractors shall do nothing to void or make voidable any of the insurance policies purchased and maintained by, or on behalf of, Owner hereunder. All insurance required to be obtained by (or on behalf of) Owner pursuant to the Agreement shall be from an insurer or insurers permitted to conduct business as required by Applicable Law and shall either (1) be acceptable to Lenders or (2) have a rating of "A-" or better and a financial category of "VIII" or better by Standard and Poor's. If Owner's insurance is provided by a captive insurer (i.e., self-insurance or use of a captive), Owner shall provide to Contractor financial statements of such insurer (if not available publicly) and such other information as is necessary to evaluate the use of such insurance, such consent not to be unreasonably withheld. Any insurance provided by, or on behalf of, Owner pursuant to this Agreement shall waive its rights of recovery against any underwriter shall waive its rights of recovery against Contractor Indemnified Parties, Subcontractors and Sub-subcontractors, and each of their respective agents, officers, directors and employees, to the extent of the liabilities assumed by Owner under the Agreement. Owner waives any and all claims, damages, losses, costs and expenses against Contractor Indemnified Parties, Subcontractors and Sub-subcontractors, and each of their respective agents, officers, directors and employees, to the extent Owner or its designate receives payment for such claims, damages, losses, costs and expenses under any insurance policies (other than delay in startup or marine delay in startup insurance) required to be procured by, or on behalf of, Owner pursuant to this Agreement.

As soon as available, Owner shall promptly provide to Contractor a certificate of insurance issued by the insurance agent, broker or underwriter evidencing the insurance required to be provided by Owner, including all endorsements, exclusions as effected. Upon Contractor's request, Owner shall promptly provide to Contractor copies of each of the insurance policies required to be provided by Owner pursuant to this Agreement. Contractor shall comply with all requirements of the insurance policies and shall cooperate with Owner and Owner's appointed surveyors in relation to any Site claims. Owner shall provide a certificate of insurance to be provided to Contractor in writing in advance of any change in the insurance.

Any time after issuance of NTP, at Contractor's request, Owner shall provide to Contractor certificates of insurance reflecting all of the insurance required to be provided by Owner under this Agreement. Types and limits of insurance required to be provided by Owner shall not be less than as required by this Attachment O shall not limit Owner's liabilities, responsibilities or liabilities under the Agreement.

H. Owner and Liquefaction Project. Owner's insurance for the Liquefaction Project and the Train 2 Expansion are being concurrently procured. Contractor and Owner acknowledge that Owner's insurance requirement as set forth in this Agreement, FLIQ1's insurance requirements under the Train 1 EPC Agreement and FLIQ2's insurance requirements under the Train 2 EPC Agreement shall be procured, maintained and administered as part of a single overall insurance program for the Liquefaction Project, and the policies obtained by, or on behalf of, Owner shall meet all requirements of this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement.

O-12

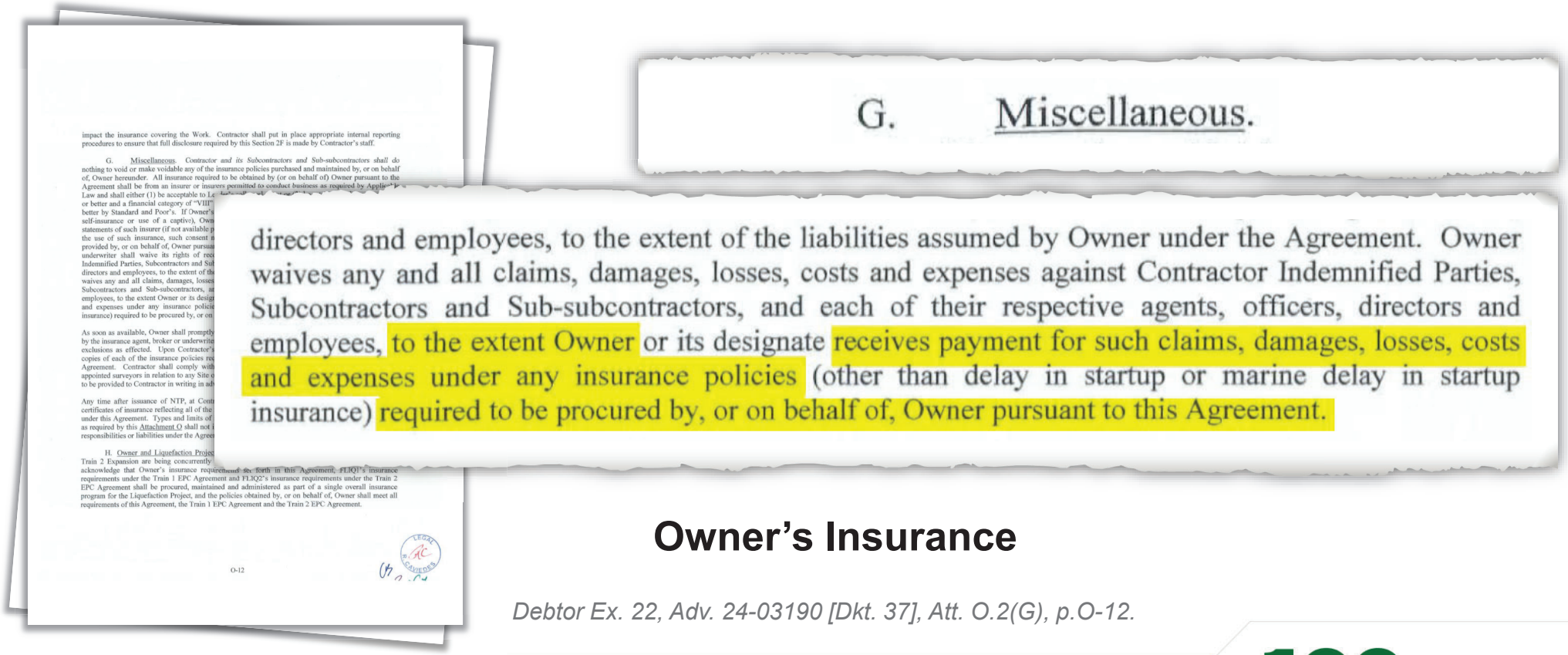
## Owner's Insurance

*Debtor Ex. 22, Adv. 24-03190 [Dkt. 37], Att. O.2(G), p.O-12.*



100 YEARS OF ZACHRY

# Motions to Dismiss – Adv. Nos. 24-03189, 03190



impact the insurance covering the Work. Contractor shall put in place appropriate internal reporting procedures to ensure that full disclosure required by this Section 2F is made by Contractor's staff.

G. Miscellaneous. Contractor and its Subcontractors and Sub-subcontractors shall do nothing to void or make voidable any of the insurance policies purchased and maintained by, or on behalf of, Owner hereunder. All insurance required to be obtained by (or on behalf of) Owner pursuant to the Agreement shall be from an insurer or insurers permitted to conduct business as required by Applicable Law and shall either (1) be acceptable to Lender and Lender's insurance consultant, (2) be rated A- or better and a financial category of "VIII" or better by Standard and Poor's. If Owner's self-insurance or use of a captive), Owner shall provide to Contractor statements of such insurer (if not available publicly) sufficient to allow Contractor to evaluate the use of such insurance, such consent not to be unreasonably withheld. Any insurance provided by, or on behalf of, Owner pursuant to this Agreement shall waive its rights of recovery against underwriter shall waive its rights of recovery against Contractor Indemnified Parties, Subcontractors and Sub-subcontractors, and each of their respective agents, officers, directors and employees, to the extent of the liabilities assumed by Owner under the Agreement. Owner waives any and all claims, damages, losses, costs and expenses against Contractor Indemnified Parties, Subcontractors and Sub-subcontractors, and each of their respective agents, officers, directors and employees, to the extent Owner or its designate receives payment for such claims, damages, losses, costs and expenses under any insurance policies (other than delay in startup or marine delay in startup insurance) required to be procured by, or on behalf of, Owner pursuant to this Agreement.

As soon as available, Owner shall promptly provide to Contractor a certificate of insurance by the insurance agent, broker or underwriter evidencing the insurance required hereunder, including exclusions as effected. Upon Contractor's request, Owner shall promptly provide Contractor with copies of each of the insurance policies required to be procured by Owner pursuant to this Agreement. Contractor shall comply with the requirements of Owner's insurance policies and appointed surveyors in relation to any Site claim, and shall provide such information as may be required to be provided to Contractor in writing in advance.

Any time after issuance of NTP, at Contractor's request, Owner shall promptly provide Contractor with certificates of insurance reflecting all of the insurance required to be procured by Owner under this Agreement. Types and limits of insurance required to be procured by Owner shall be as required by this Attachment O shall not limit Contractor's responsibilities or liabilities under the Agreement.

H. Owner and Liquefaction Project. Owner's insurance for the Train 1 EPC Agreement and the Train 2 Expansion are being concurrently procured. Contractor and Owner acknowledge that Owner's insurance requirement as set forth in this Agreement, FLIQ1's insurance requirements under the Train 1 EPC Agreement and FLIQ2's insurance requirements under the Train 2 EPC Agreement shall be procured, maintained and administered as part of a single overall insurance program for the Liquefaction Project, and the policies obtained by, or on behalf of, Owner shall meet all requirements of this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement.

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## Owner's Insurance

*Debtor Ex. 22, Adv. 24-03190 [Dkt. 37], Att. O.2(G), p.O-12.*



100 YEARS OF ZACHRY